

**CHAPTER 124****DUTIES OF COUNTY RECORDERS AND DISTRICT COURT CLERKS –  
VITAL STATISTICS AND MARRIAGE – FEES**

S.F. 422

†AN ACT relating to the duties of the county recorder, by transferring certain duties of the clerk of the district court relating to vital statistics and marriage, by providing for fees, by providing for other properly related matters, and providing effective dates.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 144.5, subsection 3, Code 1995, is amended to read as follows:

3. Direct, supervise, and control the activities of clerks of the district court and county recorders related to the operation of the vital statistics system and provide registrars with necessary postage.

Sec. 2. Section 144.5, subsection 6, Code 1995, is amended to read as follows:

6. Delegate functions and duties vested in the state registrar to officers, to employees of the department, to the clerks of the district court, and to the county registrars as the state registrar deems necessary or expedient.

Sec. 3. Section 144.9, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The ~~clerk of the district court~~ county recorder is the county registrar and with respect to the county shall:

Sec. 4. NEW SECTION. 144.11 PUBLIC ACCESS TO RECORDS.

The county registrar shall allow public access to public records under the custody of the county registrar during normal business hours for county offices in the county.

Sec. 5. Section 144.13A, Code 1995, is amended to read as follows:

144.13A FEES – USE OF FUNDS.

The county registrar or state registrar shall charge the parent a ten dollar fee for the registration of a certificate of birth and a separate fee established under section 144.46 for a certified copy of the certificate except as otherwise provided in section 331.605, subsection 6. The certified copy shall be mailed to the parent by the state registrar. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person is entitled to collect the fee from the parent. The fee shall be remitted to the appropriate registrar. If the expenses of the birth are reimbursed under the medical assistance program established by chapter 249A, or paid for under the statewide indigent patient care program established by chapter 255, or paid for under the obstetrical and newborn indigent patient care program established by chapter 255A, or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent, the registration fee and certified copy fee are waived. If the person responsible for the filing of the certificate is not the parent, the person is discharged from the duty to collect and remit the fee under this section if the person has made a good faith effort to collect the fee from the parent. The fees collected by the county registrar and state registrar shall be remitted to the treasurer of state for deposit in the general fund of the state. It is the intent of the general assembly that the funds generated from the registration fees be appropriated and used for primary and secondary child abuse prevention programs. It is the intent of the general assembly that the funds generated from the fees as established under section 144.46 for the mailing of the certified copy of the birth certificate be appropriated and used to support the distribution of the automatic birth certificate and the implementation of the electronic birth certificate system.

Sec. 6. Section 144.36, subsections 1, 2, and 4, Code 1995, are amended to read as follows:

†Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

1. A certificate recording each marriage performed in this state shall be filed with the state registrar. The ~~clerk of the district court~~ county registrar shall prepare the certificate on the form furnished by the state registrar upon the basis of information obtained from the parties to be married, who shall attest to the information by their signatures. The ~~clerk of the district court~~ county registrar in each county shall keep a record book for marriages. The form of marriage record books shall be uniform throughout the state. A properly indexed permanent record of marriage certificates upon microfilm, electronic computer, or data processing equipment may be kept in lieu of marriage record books.

2. Every person who performs a marriage shall certify the fact of marriage and return the certificate to the ~~clerk of the district court~~ county registrar within fifteen days after the ceremony. The certificate shall be signed by the witnesses to the ceremony and the person performing the ceremony.

4. The ~~clerk of the district court~~ county registrar shall record and forward to the state registrar on or before the tenth day of each calendar month the original certificates of marriages filed with the ~~clerk~~ county registrar during the preceding calendar month and the fees collected by the county registrar on behalf of the state for applications for a license to marry in accordance with section 331.605, subsection 7.

Sec. 7. Section 144.45, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The state registrar and the ~~clerk of the district court~~ county registrar shall, upon written request from any applicant entitled to ~~such a~~ record, issue a certified copy of any certificate or record in the registrar's ~~or clerk's~~ custody or of a part ~~thereof of a certificate or record~~. Each copy issued shall show the date of registration; and copies issued from records marked "delayed", "amended", or "court order" shall be similarly marked and show the effective date.

Sec. 8. Section 144.46, Code 1995, is amended to read as follows:

144.46 FEE FOR COPY OF RECORD.

The department by rule shall establish fees based on the average administrative cost which shall be collected by the state registrar or the ~~clerk of the district court~~ county registrar for each certified copy or short form certification of certificates or records, or for a search of the files or records when no copy is made, or when no record is found on file. Fees collected by the state registrar and by the county registrar on behalf of the state under this section shall be deposited in the general fund of the state. ~~Fees collected by the clerk of the district court shall be deposited in the court revenue distribution account established under section 602.8108. Fees collected by the county registrar pursuant to section 331.605, subsection 6, shall be deposited in the county general fund.~~ A fee shall not be collected from a political subdivision or agency of this state.

Sec. 9. Section 331.601, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In counties in which the office of county recorder has been abolished, the board of supervisors shall reassign the duties of the county recorder who also serves as the county registrar pursuant to chapter 144.

Sec. 10. Section 331.602, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 40. Accept applications for passports.

Sec. 11. Section 331.605, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 6. A county fee of four dollars for the following certificates, records, or services:

- a. A certified copy of a birth record, death record, or marriage certificate.
- b. A birth registration.

**NEW SUBSECTION.** 7. For filing an application for the license to marry, thirty dollars. For issuing an application for an order of the district court authorizing the issuance of a license to marry before the expiration of three days from the date of filing the application for the license, five dollars. The district court shall authorize the issuance of a marriage license without the payment of any fees imposed in this subsection upon showing that the applicant is unable to pay the fees.

Sec. 12. **NEW SECTION.** 331.611 VITAL STATISTICS.

1. The recorder shall be the county registrar and carry out duties as provided in chapter 144.

2. The duties include, but are not limited to, the following:

a. Register and maintain certifications of birth as provided in sections 144.13 through 144.18, 144.45, and 144.46.

b. Register and maintain certifications of death as provided in sections 144.26 through 144.35, 144.45, and 144.46.

c. Issue and maintain marriage certificates as provided in sections 144.36, 144.45, and 144.46, and chapter 595.

Sec. 13. Section 595.3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Previous to the solemnization of any marriage, a license for that purpose must be obtained from the ~~clerk of the district court~~ county registrar. ~~Such~~ The license must not be granted in any case:

Sec. 14. Section 595.4, Code 1995, is amended to read as follows:

595.4 AGE AND QUALIFICATION - VERIFIED APPLICATION - WAITING PERIOD - EXCEPTION.

Previous to the issuance of any license to marry, the parties desiring ~~such~~ the license shall sign and file a verified application with the ~~clerk of the court~~ county registrar which application either may be mailed to the parties at their request or may be signed by them at the office of the ~~clerk of the district court~~ county registrar in the county in which the license is to be issued. ~~Such~~ The application shall set forth at least one affidavit of some competent and disinterested person stating ~~such~~ the facts as to age and qualification of the parties ~~as the clerk may deem necessary to determine the competency of the parties to contract a marriage~~. Upon the filing of the application for a license to marry, the ~~clerk of the district court~~ county registrar shall file the application in a record kept for that purpose.

After expiration of three days from the date of filing the application by the parties, the ~~clerk~~ county registrar shall issue the license ~~if the clerk is satisfied as to the competency of the parties to contract a marriage~~. If the license has not been issued within six months from the date of the application, the application is void.

A license to marry may be issued prior to the expiration of three days from the date of filing the application for the license in cases of emergency or extraordinary circumstances. An order authorizing the issuance of a license may be granted by a judge of the district court under conditions of emergency or extraordinary circumstances upon application of the parties filed with the ~~clerk of court~~ county registrar. No ~~such~~ order may be granted unless the parties have filed an application for a marriage license in a county within the judicial district. An application for ~~such~~ an order shall be made on forms furnished by the ~~clerk~~ county registrar at the same time the application for the license to marry is made. ~~If after~~ After examining the application for the marriage license ~~the clerk is satisfied as to the competency of the parties to contract a marriage~~, the ~~clerk~~ county registrar shall refer the parties to a judge of the district court for action on the application for an order authorizing the issuance of a marriage license prior to expiration of three days from the date of filing the application for the license. The judge shall, if satisfied as to the existence of an

emergency or extraordinary circumstances, grant an order authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license to marry. The clerk county registrar shall issue a license to marry upon presentation by the parties of the order authorizing a license to be issued. A fee of five dollars shall be paid to the clerk county registrar at the time the application for the order is made, which fee is in addition to the fee prescribed by law for the issuance of a marriage license.

Sec. 15. Section 595.5, Code 1995, is amended to read as follows:  
595.5 SURNAME ADOPTED.

A party may request on the application for a marriage license a name change to that of the other party or to some other surname mutually agreed upon by the parties. The names used on the marriage license shall become the legal names of the parties to the marriage. The marriage license shall contain a statement that when a name change is requested and affixed to the marriage license, the new name is the legal name of the requesting party. If a party requests a name change, other than a change of surname to that of the other spouse or to a combination of the surnames of both spouses, the party shall request approval of the court pursuant to chapter 674 and shall submit to the court the information required by section 674.2. Upon approval of the court and solemnization of the marriage, the ~~clerk of the district court~~ county registrar shall send a certified copy of the return of marriage to the recorder's office in every county in this state where real property is owned by either of the parties. The judge may approve the name change. The new names and the immediate former names shall appear on the return of marriage, and the return of marriage shall be recorded in the miscellaneous records in the recorder's office. An individual shall have only one legal name at any one time.

Sec. 16. Section 595.6, Code 1995, is amended to read as follows:  
595.6 FILING AND RECORD REQUIRED.

The affidavit or certificate, in each case, shall be filed by the clerk county registrar and constitute a part of the records of the clerk's registrar's office. A memorandum of the affidavit or certificate shall also be entered in the license book.

Sec. 17. Section 595.7, Code 1995, is amended to read as follows:  
595.7 DELIVERY OF BLANK WITH LICENSE.

When a license is issued the clerk county registrar shall deliver to the applicant a blank return for the marriage, and give ~~such~~ instructions relative ~~thereto~~ to the blank return as will insure a complete and accurate return.

Sec. 18. Section 595.11, Code 1995, is amended to read as follows:  
595.11 NONSTATUTORY SOLEMNIZATION - FORFEITURE.

Marriages solemnized, with the consent of parties, in any manner other than that prescribed in this chapter, are valid; but the parties, and all persons aiding or abetting them, shall pay to the treasurer of state for deposit in the general fund of the state the sum of fifty dollars each; but this shall not apply to the person conducting the marriage ceremony, if within fifteen days ~~thereafter~~ after the ceremony is conducted, the person makes the required return to the ~~clerk of the district court~~ county registrar.

Sec. 19. Section 595.13, subsection 2, Code 1995, is amended to read as follows:

2. Make return of ~~such~~ the marriage within fifteen days to the ~~clerk of the district court~~ county registrar, who issued the marriage license upon the blank provided for that purpose.

Sec. 20. Section 595.15, Code 1995, is amended to read as follows:  
595.15 INADEQUATE RETURN.

If the return of a marriage is not complete in every particular as required by the forms specified in section 144.12, the clerk county registrar shall require the person making the same to supply the omitted information.

Sec. 21. Section 595.16, Code 1995, is amended to read as follows:  
595.16 SPOUSE RESPONSIBLE FOR RETURN.

When a marriage is consummated without the services of a cleric or magistrate, the required return thereof of the marriage may be made to the ~~clerk~~ county registrar by either spouse.

Sec. 22. Section 602.8102, subsection 83, Code 1995, is amended by striking the subsection.

Sec. 23. Section 602.8105, subsection 2, paragraph a, Code 1995, is amended by striking the paragraph.

Sec. 24. TRANSFER OF RECORDS. All records in the custody of the clerk of the district court which relate to vital statistics duties being transferred to the county recorder or a successor county officer shall be transferred to the county recorder or a successor county officer on the effective date of this Act.

Sec. 25. TRANSITION - MODERNIZATION OF SYSTEM. During a transitional period prior to July 1, 1997, the clerks of the district court and the county recorders or their successor county officers shall cooperate to implement a modernization of the vital statistics records system within the counties.

Sec. 26. EFFECTIVE DATES.

1. Sections 1 through 24 of this Act take effect July 1, 1997.
2. Section 25 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 1995

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## CHAPTER 125

### LANDLORDS AND TENANTS

H.F. 492

**AN ACT** relating to the exclusion of certain nonprofit transitional housing from landlord-tenant agreements and remedies, tenant remedies for landlord noncompliance with a rental agreement, landlord remedies for tenant noncompliance with a rental agreement and acts constituting a clear and present danger and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 535.2, subsection 7, Code 1995, is amended to read as follows:

7. This section does not apply to a charge imposed for late payment of rent. However, in the case of a residential lease, a late payment fee shall not exceed ~~three dollars a day for the first five days the rent is late and one dollar a day for the next twenty-five days~~ ten dollars a day or forty dollars per month.

Sec. 2. Section 562A.5, Code 1995, is amended by adding the following new subsection:

**NEW SUBSECTION.** 8. Occupancy in housing owned by a nonprofit organization whose purpose is to provide transitional housing for persons released from drug or alcohol treatment facilities and in housing for homeless persons.