

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



# ENROLLED

COMMITTEE SUBSTITUTE

FOR

**House Bill No. 4605**

(By Delegates Miley, Moore, Walker,  
Ferro, Boggs, J. Miller, Manypenny,  
Michael, Pino, O'Neal and Lane)



Passed March 10, 2012

To Take Effect Ninety Days From Passage

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## H. B. 4605

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(BY DELEGATES MILEY, MOORE, WALKER,  
FERRO, BOGGS, J. MILLER, MANYPENNY,  
MICHAEL, PINO, O'NEAL AND LANE)

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[Passed March 10, 2012; to take effect ninety days from passage.]

AN ACT to amend and reenact §48-2-104 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §48-2-701 and §48-2-702; and to amend and reenact §59-1-10 of said code, all relating generally to premarital education; providing a premarital education incentive to applicants for marriage licenses; providing for curriculum requirements for premarital education; identifying instructors for premarital education; increasing the fee for marriage license without completion of a premarital education course; creating a fund for purposes of administering the premarital education; and creating a fund for purposes of administering civil legal services for low income persons.

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

That §48-2-104 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto two new sections, designated §48-2-701 and

§48-2-702; and that §59-1-10 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 48. DOMESTIC RELATIONS.**

### **ARTICLE 2. MARRIAGE.**

#### **PART I. APPLICATION FOR MARRIAGE LICENSE.**

##### **§48-2-104. Contents of the application for a marriage license.**

1 (a) The application for a marriage license must contain a  
2 statement of the full names of both the female and the male  
3 parties, their social security account numbers, dates of birth,  
4 places of birth and residence addresses. The application must  
5 state whether or not the persons seeking the license have  
6 completed premarital education pursuant to section  
7 seven-hundred-one, article two, chapter forty-eight of this  
8 code. If the application states that the applicants seeking  
9 issuance of the license have completed premarital education,  
10 then the applicants must submit a signed and dated certificate  
11 of completion issued by the premarital education provider.

12 (b) If either of the parties is a legal alien in the United  
13 States of America and has no social security account number,  
14 a tourist or visitor visa number or number equivalent to a  
15 United States social security account number must be  
16 provided.

17 (c) Every application for a marriage license must contain  
18 the following statement: "Marriage is designed to be a loving  
19 and lifelong union between a woman and a man.

20 The laws of this state affirm your right to enter into this  
21 marriage and to live within the marriage free from violence  
22 and abuse. Neither of you is the property of the other.

23 Physical abuse, sexual abuse, battery and assault of a spouse  
24 or other family member, and other provisions of the criminal  
25 laws of this state are applicable to spouses and other family  
26 members, and these violations are punishable by law.”

PART VII. PREMARITAL EDUCATION.

**§48-2-701. Premarital education encouraged; requirements.**

1 (a) Persons applying for a marriage license may attend a  
2 premarital education course of at least four hours during the  
3 twelve months immediately preceding the date of the  
4 application for the license.

5 (b) A premarital education course offers instruction  
6 involving marital issues which may include, but not be  
7 limited to, the following:

8 (1) Conflict management;

9 (2) Communication skills;

10 (3) Managing finances;

11 (4) Child and parenting responsibilities;

12 (5) Extended family roles; and

13 (6) Key components of a successful marriage.

14 (c) Premarital education course instructors must have  
15 training in skills-based and research-based marriage  
16 preparation curricula.

17 (d) Premarital education courses may be performed by the  
18 following:

19 (1) A professional counselor or marriage and family  
20 therapist licensed pursuant to article thirty-one, chapter thirty  
21 of this code;

22 (2) A social worker licensed pursuant to article thirty,  
23 chapter thirty of this code;

24 (3) A psychiatrist who is licensed as a physician pursuant  
25 to article three, chapter thirty of this code;

26 (4) A psychologist who is licensed pursuant to article  
27 twenty-one, chapter thirty of this code; or

28 (5) An active member of the clergy or his or her designee,  
29 including retired clergy, provided that a designee is trained in  
30 skills-based and research-based marriage preparation  
31 curricula premarital education.

32 (e) The premarital education course curricula must meet  
33 the requirements of this section and provide a skills-based  
34 and research-based curricula of the following:

35 (1) The National Healthy Marriage Resource Center;

36 (2) A church, spiritual assembly, or religious  
37 organization; or

38 (3) Other substantially similar resource.

39 (f) The Department of Health and Human Resources shall  
40 maintain an Internet website on which individuals and  
41 organizations described in subsection (c) may electronically  
42 register with the department to indicate the skills-based and  
43 research-based curriculum in which the registrant is trained.

44 (g) The premarital education provider shall furnish each  
45 participant, who completes the premarital education required  
46 by this section, a certificate of completion.

**§48-2-702. Marriage education fund.**

1 (a) There is hereby created a special revenue account  
2 within the State Treasury known as the Marriage Education  
3 Fund. The account shall be administered by the Secretary of  
4 the Department of Health and Human Resources.

5 (b) Any balance in the account at the end of each fiscal  
6 year shall not revert to the general revenue fund but shall  
7 remain in the account and be expended as provided by in this  
8 section.

9 (c) The account shall consist of all fees collected under  
10 the provisions of paragraph (C), subdivision (4), subsection  
11 (c), of section ten, article one, chapter fifty-nine of this code,  
12 legislative appropriations, and all interest or other returned  
13 earned from investment of the fund.

14 (d) Expenditures from the account shall be made by the  
15 secretary for the purposes set forth in section seven-hundred-  
16 one of this article, and are not authorized from collections,  
17 but are to be made only in accordance with appropriation by  
18 the Legislature and in accordance with the provisions of  
19 article three, chapter twelve of this code and upon the  
20 fulfillment of the provisions set forth in article two, chapter  
21 eleven-b of this code: *Provided*, That for fiscal year ending  
22 June 30, 2013, expenditures are authorized from collections  
23 rather than pursuant to an appropriation by the Legislature.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS;  
NEWSPAPERS; LEGAL ADVERTISEMENTS.**

**ARTICLE 1. FEES AND ALLOWANCES.**

**§59-1-10. Fees to be charged by clerk of county commission.**

1 For the purpose of this section, the word “page” is  
2 defined as being a paper or electronic writing of not more  
3 than legal size, 8 1/2" x 14".

4 (a) When a writing is admitted to record, for receiving  
5 proof of acknowledgment thereof, entering an order in  
6 connection therewith, endorsing clerk’s certificate of  
7 recordation thereon and indexing in a proper index, the clerk  
8 of the county commission shall charge and collect the  
9 following fees:

10 (1) Fifteen dollars for a deed of conveyance (with or  
11 without a plat), trust deed, fixture filing or security agreement  
12 concerning real estate lease.

13 (2) Forty dollars for a trustee’s report of sale for any  
14 property for which additional information and filing  
15 requirements are required by section eight-a, article one,  
16 chapter thirty-eight of this code. Twenty dollars of each  
17 recording fee received pursuant to this subdivision shall be  
18 deposited into the county’s General Revenue Fund and \$20  
19 paid quarterly by the clerk of the county commission to the  
20 West Virginia Housing Development Fund established in  
21 article eighteen, chapter thirty-one of this code.

22 (3) Ten dollars for a financing, continuation, termination  
23 or other statement or writing permitted to be filed under  
24 chapter forty-six of this code.

25 (4) Ten dollars for a plat or map (with no deed of  
26 conveyance) .

27 (5) No charge for a service discharge record.

28 (6) Ten dollars for any document or writing other than  
29 those referenced in subdivisions (1), (2), (3), (4) and (5) of  
30 this subsection.

31 (7) One dollar for each additional page for documents or  
32 writings containing more than five pages.

33 For any of the documents admitted to record pursuant to  
34 this subsection, if the clerk of the county commission has the  
35 technology available to receive these documents in electronic  
36 form or other media, the clerk shall set a reasonable fee to  
37 record these writings not to exceed the cost for filing paper  
38 documents.

39 (8) Of the fees collected pursuant to subdivision (1),  
40 subsection (a) of this section, \$10 shall be deposited in the  
41 county general fund in accordance with section twenty-eight  
42 of this article and \$1 shall be deposited in the county general  
43 fund and dedicated to the operation of the county clerk's  
44 office. Four dollars of the fees collected pursuant to  
45 subdivision (1), subsection (a) of this section and \$5 of the  
46 fees collected pursuant to subdivision (6), subsection (a) of  
47 this section shall be paid by the county clerk into the State  
48 Treasury and deposited in equal amounts for deposit into the  
49 Farmland Protection Fund created in article twelve, chapter  
50 eight-a of this code for the benefit of the West Virginia  
51 Agricultural Land Protection Authority and into the Outdoor  
52 Heritage Conservation Fund created in article two-g, chapter  
53 five-b of this code. The funds deposited in the State Treasury  
54 pursuant to this subdivision may only be used for costs,  
55 excluding personnel costs, associated with purpose of land

56 conservation, as defined in subsection (f), section seven,  
57 article two-g, chapter five-b of this code.

58 (b) Five dollars for administering any oath other than  
59 oaths by officers and employees of the state, political  
60 subdivisions of the state or a public or quasi-public entity of  
61 the state or a political subdivision of the state, taken in his or  
62 her official capacity.

63 (c) Fifty-five dollars for issuance of marriage license and  
64 other duties pertaining to the marriage license (including  
65 preparation of the application, administrating the oath,  
66 registering and recording the license, mailing  
67 acknowledgment of minister's return to one of the licensees  
68 and notification to a licensee after sixty days of the  
69 nonreceipt of the minister's return). This fee is reduced to  
70 \$35 if the applicants present a premarital education course  
71 completion certificate issued pursuant to section seven  
72 hundred one, article two, chapter forty-eight of this code, and  
73 dated within one year of the application for a marriage  
74 license.

75 (1) One dollar of the marriage license fee received  
76 pursuant to this subsection shall be paid by the county clerk  
77 into the State Treasury as a state registration fee in the same  
78 manner that license taxes are paid into the Treasury under  
79 article twelve, chapter eleven of this code;

80 (2) Fifteen dollars of the marriage license fee received  
81 pursuant to this subsection shall be paid by the county clerk  
82 into the State Treasury for the Family Protection Shelter  
83 Support Act in the same manner that license taxes are paid  
84 into the Treasury under article twelve, chapter eleven of this  
85 code;

86 (3) Ten dollars of the marriage license fee received  
87 pursuant to this subsection shall be deposited in the  
88 Courthouse Facilities Improvement Fund created by section  
89 six, article twenty-six, chapter twenty-nine of this code; and

90 (4) If a premarital education course completion certificate  
91 is not presented, the county clerk shall, on or before the tenth  
92 day of each month, transmit \$20 of the marriage license fee  
93 received pursuant to this subsection to the state treasurer for  
94 deposit in the state treasury as follows:

95 (A) Five dollars to the credit of the Family Protection  
96 Shelter Support Act in the same manner that license taxes are  
97 paid into the Treasury under article twelve, chapter eleven of  
98 this code;

99 (B) Five dollars to the credit of the special revenue  
100 account, hereby created, designated the “Fund for Civil Legal  
101 Services for Low Income Persons,” which shall consist of all  
102 gifts, grants, bequests, transfers, appropriations or other  
103 donations or payments which may be received and  
104 administered by the Division of Justice and Community  
105 Services from any governmental entity or unit or any person,  
106 firm, foundation, or corporation for the purposes of this  
107 section, and all interest or other return earned from  
108 investment of the fund. Expenditures from the fund shall be  
109 made by the Director of the Division of Justice and  
110 Community Services and shall be limited to grants to  
111 nonprofit agencies which provide civil legal services to low  
112 income persons made at his or her discretion. Any balance in  
113 the fund at the end of each fiscal year shall not revert to the  
114 general revenue fund but shall remain in the fund and be  
115 expended as provided by this section.

116 (C) Ten dollars to the credit of the Marriage Education  
117 Fund created pursuant to section seven-hundred-two, article  
118 two, chapter forty-eight of this code.

119 (d) (1) One dollar and fifty cents for a copy of any  
120 writing or document, if it is not otherwise provided for.

121 (2) One dollar for each additional page if the writing or  
122 documents contains more than two pages.

123 (3) One dollar for annexing the seal of the commission or  
124 clerk to any paper.

125 (4) Five dollars for a certified copy of a birth certificate,  
126 death certificate or marriage license.

127 (e) For copies of any record in electronic form or a  
128 medium other than paper, a reasonable fee set by the clerk of  
129 the county commission not to exceed the costs associated  
130 with document search and duplication.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2012.

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*Governor*