

# SERVING AS A MARRIAGE OFFICIANT IN VIRGINIA

**ABSTRACT:** Some counties in the Commonwealth of Virginia have put in place obstacles that are intended to deter legally-ordained persons from performing marriage ceremonies. These obstacles include a complex application process requiring Officiants to answer lengthy essay questions about their church's internal procedures; they may also be required to appear before a judge and/or post bond to receive final authorization.

Counties in Virginia are also permitted to establish their own local fees and policies that are intended to impede the process by delaying authorization, including time constraints which can range from ten days to six weeks, depending upon the jurisdiction. These policies vary widely from county to county.

Although these obstacles are widely considered to be a violation of the United States Constitution, it is otherwise acceptable for legally-ordained ceremonial ministers to serve anywhere in Virginia without local registration.

**PROCEDURE:** Should a person be denied the freedom to practice the spiritual beliefs, customs and traditions that all persons are guaranteed under the First Amendment to the United States Constitution through state or local restrictions, that person may legally serve as a Civil Officiant in order to perform marriage ceremonies.

In such cases, the bridal couple must obtain their marriage license and have it *completed in full and certified* at the issuing clerk's office. Once certified by the clerk, the couple is considered legally married, and the Civil Officiant may perform the subsequent public marriage ceremony for the couple's family and friends.

In any situation in which you choose not to register or are denied the right to perform marriage ceremonies in a particular jurisdiction, please follow these steps:

- 1.** Your couple must visit their local county office to obtain their marriage license in person. They must inform the clerk that they want the marriage license *completed in full and certified by the clerk* before they leave the office.
- 2.** Your couple must confirm with the clerk that their marriage is official and certified prior to leaving the county office. They may be required to pay an additional fee to receive a certified copy of their marriage license.\*
- 3.** At this point, your couple is officially married in full compliance with Virginia law. You are now permitted to perform the public ceremony for the couple and their families and friends.

## ADDITIONAL INFORMATION

The public ceremony may follow any format, based on your couple's preferences. Upon completing the public ceremony, you may pronounce the couple as married.

There is no legal document – a license or certificate – that must be signed after the public ceremony and returned to the county. However, the Officiant may provide the couple with a personalized marriage certificate as a keepsake following the ceremony. (Check your documents packet for more information.)

## SINGLE-CEREMONY AUTHORIZATION

We highly recommend that you contact the local county office in which you intend to perform ceremonies in Virginia; each county has a page on their website dedicated specifically to marriage license information and Civil Celebrant registration.

Most jurisdictions in Virginia allow ministers to register for a one-day authorization to perform a single ceremony; upon successfully registering, the ceremony can only be performed within that county.

In many cases – again, depending upon the location – your appearance in court may be as simple as standing before the judge, raising your right hand, and affirming an oath read by the judge. (Most courts have very crowded schedules and perform this process in a matter of minutes in order to move on to more important criminal cases.)

The application process and fee varies by location. The county may also require you to post a \$500 bond; often, this is simply a personal check from you that will be held (not deposited) until the registration process is completed, after which it is returned to you. However, some counties may require you to obtain a surety bond or submit a cashier's check or money order.

If you choose to go through the registration process in your county, you are solely responsible for all state and local fees, including charges for surety bonds, that may be imposed.

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\* – Please note that your couple must obtain a certified copy of their marriage license at some point; it is required for name changes, insurance and tax purposes, as well as for other legal and financial purposes.

# Virginia Marriage Officiant Guide

**Officiants:** Legally-ordained ministers residing in Virginia or outside the Commonwealth may perform marriage ceremonies under the terms of Code of Virginia § 20-31. (See reverse for text of the law.)

Officiants must receive local court approval, and must complete the marriage license and certificate of marriage and return it to the clerk's office from which it was issued within five days from the date of the marriage ceremony.

**PLEASE NOTE:** *If the court requires you to complete a questionnaire detailing your qualifications, you are permitted by law to claim exemption under the terms of Code of Virginia § 20-31.*

*If you are told that you are required to complete the form, please contact us immediately for assistance at [ministry@firstnationchurch.org](mailto:ministry@firstnationchurch.org) (Please include a copy of the form provided by the court.)*

## MARRIAGE LICENSE INFORMATION

*Much of the information below is state law; however, this information can vary depending upon the location in Virginia, and is subject to change. We recommend contacting your Circuit Court clerk's office before applying for your marriage license.*

**Marriage License ID Requirement:** Valid picture ID and a certified copy of a birth certificate must be presented. A license for marriage in Virginia is issued by the clerk, or the deputy clerk, of the circuit of the county or independent city of which either party to the marriage is a resident; or, if neither party to the marriage is a resident of Virginia, the license may be obtained in any county or city.

In either case, the ceremony may be performed anywhere in Virginia. Applicants must, under oath, furnish information, required to complete the marriage record. These items are material matters, and the applicant may be subject to prosecution for perjury for violation of the portion of the statutes which requires this information.

**If Previously Married:** If divorced there is no statutory waiting period before remarriage after the divorce is granted, unless remarriage is specifically prohibited by a court. In some cases, clerks may require documentary proof of age or termination of a previous marriage.

**Residency Requirement:** You do not have to be a resident of Virginia; however, no license shall be issued to non-resident (out of state) couples that are under the age of sixteen.

**Application Requirement:** Both parties to the marriage must appear in person at the time of applying. *Please note that many county offices are closed on Saturdays and Sundays!*

**Fees:** \$30. The additional fee for a Justice of the Peace fee to solemnize the marriage is by donation only. He or she may charge up to \$30 for each couple getting married. Employing a Justice of the Peace is optional. (See *Officiants* below.)

**Waiting Period:** No waiting period is required after issuance of the marriage license.

**Blood Tests:** No blood test requirement.

**Minimum Age:** The minimum age for marriage in the Commonwealth of Virginia is sixteen years for both parties to the marriage, whether male or female; however, if either party is under eighteen, consent to the marriage must be given by the father, mother, or legal guardian. This may be done personally by the parent or legal guardian before the person issuing the license, or by written consent properly sworn to before a notary public.

Special provisions are made in Virginia law to allow marriage for under-age parties when the female is pregnant and for situations in which underage applicants have no parent or legal guardian.

**Marriage Ceremony:** A minister of any denomination may perform the marriage ceremony. The minister must produce proof of authorization with the religious society and

The officiant signs and completes the Marriage Register, and must return both forms to the clerk within five days. The forms are then forwarded to the State Division of Vital Records. Subsequently, the couple receives a marriage certificate.

**Same-Gender Marriage:** Permitted.

**Witnesses:** There is no statutory requirement that witnesses be present at the marriage ceremony.

**Prohibited Marriages:**

- A marriage entered prior to the dissolution of an earlier marriage of one of the parties.
- A marriage between an ancestor and descendant; or between a brother/sister, uncle/niece, and aunt/nephew, whether the relationship is by half-blood, whole blood, or adoption.
- When either of the parties lacks capacity to consent to the marriage because of mental incapacity or infirmity.
- “Common law” marriages are not valid if entered into Virginia or any other jurisdiction which does not permit them for its residents.

**Valid:** A Virginia marriage license is valid for 60 days, and can only be used (solemnized) within the Commonwealth of Virginia.

*For additional information, please visit [FirstNationMinistry.org](http://FirstNationMinistry.org)*

*The above information is believed to be correct, but does not purport to be legal advice, is not all-inclusive and shall be used only as a guide. Under the terms specified in your ordination, you are solely responsible for becoming familiar with and complying to all current laws and regulations in effect within the jurisdiction in which you will conduct ceremonies.*

## Code of Virginia

### Title 20 – Domestic Relations

§ 20-31. **Belief of parties in lawful marriage validates certain defects.**

No marriage solemnized under a license issued in this Commonwealth by any person professing to be authorized to solemnize the same shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected on account of any want of authority in such person, or any defect, omission or imperfection in such license, if the marriage be in all other respects lawful, and be consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

*(Code 1919, § 5082.)*