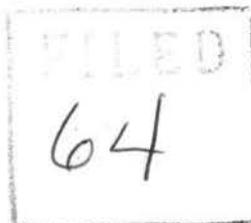


House Bill No. 20: Marriage license application is not required to be presented in person by applicants for licenses.

June 4, 1943

Hon. Mark Morris  
Prosecuting Attorney  
Pike County  
Bowling Green, Missouri



Filed 64

Dear Mr. Morris:

Under date of June 1, 1943, you wrote this office requesting an opinion as follows:

"Would appreciate opinion on the following question:

"In regard to House Bill #20, recently passed by the 62nd General Assembly, would like to know if the application for the marriage licenses can be mailed in to the Recorder's Office or must be applied for personally. In other words, can the application be made out before a Notary Public, say in the State of Illinois, and then mailed to the Recorder's office in Missouri and there stay 3 days before a license is issued?"

The answer to your request depends upon the interpretation of the word "present" as used in the following sentence taken from House Bill No. 20:

"Before applicants for a marriage license shall receive a license, and before the Recorder of Deeds shall be authorized to issue a license, the parties to the marriage must, at least three days before the date they desire such license to be issued, present an application for the license to the Recorder of Deeds."

The verb "present" has various meanings, a few of the definitions of the word from Webster's New International

## Dictionary are as follows:

"To lay or put before a person for acceptance; to offer as a gift; to give or bestow formally; of things, to afford or furnish.

"To hand or pass over, esp. ceremoniously; to deliver.

"To lay before, or submit to, a person or body for consideration or action; as to present a memorial, petition, or indictment."

In numerous cases courts have had occasion to define the word. In matters pertaining to court procedure it has frequently been given a meaning which limits the word to a personal presentment. Illustrations of these definitions are the following brief extracts from the cases:

"Under code, 3528, providing that no action shall be brought against a county on an unliquidated demand, unless the same has been presented to the board of supervisors and payment demanded and refused, an unliquidated demand, such as a claim for personal injuries, must be in writing when its payment is demanded; the word 'present' being generally used when formal action is indicated. Escher v. Carroll County, 125 N. W. 810, 812, 146 Iowa 738."

"Under a contract provision, requiring claim for damages or statutory penalty provided by Rev. St. 1919, 10136, Mo. St. Ann. 4925, p. 2240, to be presented in writing within 60 days after telegram was filed for transmission, a mere notice of failure to deliver the telegram is insufficient; a 'presentation' of a 'claim' based thereon being necessary. Davis v. Western Union Telegraph Co., Mo., 236 S. W. 407, 408."

In other instances the word has been given a more liberal interpretation as illustrated by the following cases:

"Acts Ala. 1903, p. 117, providing for change of a county seat, and requiring petition therefor to be 'presented to the Governor,' means that it must be

lodged with him or his official force in some formal manner, so as to become an official document. State ex rel. Brown v. Porter, 40 So. 144, 145, 145 Ala. 541."

"Within C.S. 1913, 853, requiring presentation to Secretary of State of petitions of aspirants for nomination at a primary election, presentation may be through the agency of postal or express facilities. Such presentation is sufficient if a delivery of such petitions is made by mail or express in the usual manner to some agent of the secretary of state authorized to receive mail or express within the time prescribed by the statute. Held, that delivery of petitions by an express company to the board of administration of the state of North Dakota was a delivery to the secretary of state through an agent authorized to receive the same, and therefore a 'presentation' within the meaning of that term as used in the statute. State v. Byrne, 209 N.W. 345, 346, 54 N.D. 274."

No case has been found defining the verb "present" as used in Section 3364 of House Bill No. 20 enacted by the 62nd General Assembly.

In the statutory rules for construing statutes, Section 655 R. S. Mo., 1939, the following clause is found:

" \* \* \* First, words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import; \* \* "

The primary rule for construction of statutes is to ascertain the lawmakers intent, from words used, if possible, give language thereof, honestly and faithfully, its plain and rational meaning and promote its objects. Wallace v. Woods, 102 S. W. (2d) 91, 340 Mo. 452; Artiphone Corp. v. Coale, 133 S. W. (2d) 343; Cummins v. Kansas City Public Service Company, 66 S. W. (2d) 920.

No record is kept of the debates on bills in the House of Representatives which could be consulted to ascertain the intention of the Legislature. However, House Bill No. 20 was introduced and sponsored by the Honorable R. H. Ridenhour, Representative from Osage County. In an interview with Mr. Ridenhour he stated that it was not the intention that the bill should require an application for a marriage license to be personally presented; that an amendment to the bill was offered which would have required personal presentment by both parties desiring to be married; that the proposed amendment was defeated after debate on the floor of the House and that in his argument against the amendment he stated it was not his intention that the bill should require a personal presentation of the application by the applicants for license.

This bit of history, in connection with the passage of the act, clearly shows the intention of the Legislature.

The definitions in the dictionary and some of the cases uphold the conclusion.

#### CONCLUSION

An application for marriage license under the provisions of Section 3364 of House Bill No. 20, enacted by the 62nd General Assembly, need not be personally presented to the Recorder of Deeds by the persons desiring to procure the license to marry. It may be mailed or sent by messenger and if properly executed and shows the persons qualified to contract matrimony, the Recorder of Deeds may issue the license.

Respectfully submitted,

W. O. JACKSON  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

WOJ/mh