



PUBLISHED BY:
State of Florida
Executive Office of the Governor
Notary Education Section
LL06 Capitol
Tallahassee, Florida 32399-0001

(850) 922-6400
(850) 410-1294 FAX

E-MAIL:
adamsl@eog.state.fl.us

INTERNET ADDRESS:
http://www.state.fl.us/eog/notary_educate/index.html

PREPARED BY:
Linda Adams, Notary Education Coordinator,
with production and layout assistance from
Susie White, EOG/IS/Presentations.

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This booklet has been prepared to educate Notaries Public about their responsibilities in solemnizing marriage and is not intended as legal advice. For additional information, it may be advisable for you or your customer to seek the advice of a competent attorney.

Laws Related to Solemnizing Marriage from the 1997 Florida Statutes and the 1998 Supplement to the Florida Statutes

117.045 Marriages.—A notary public is authorized to solemnize the rites of matrimony. For solemnizing the rites of matrimony, the fee of a notary public may not exceed those provided by law to the clerks of the circuit court for like services.

117.05 Use of notary commission; unlawful use; notary fee; seal . . .—

(2) The fee of a notary public may not exceed \$10 for any one notarial act, except as provided in s. 117.04.

28.24 Service charges by clerk of the circuit court.—

(29) For solemnizing matrimony, \$20.

741.07 Persons authorized to solemnize matrimony.—

(1) All regularly ordained ministers of the gospel or elders in communion with some church, or other ordained clergy, and all judicial officers, including retired judicial officers, clerks of the circuit courts, and notaries public of this state may solemnize the rights of matrimonial contract, under the regulations prescribed by law. Nothing in this section shall make invalid a marriage which was solemnized by any member of the clergy, or as otherwise provided by law prior to July 1, 1978.

(2) Any marriage which may be had and solemnized among the people called "Quakers," or "Friends," in the manner and form used or practiced in their societies, according to their rites and ceremonies, shall be good and valid in law; and wherever the words "minister" and "elder" are used in this chapter, they shall be held to include all of the persons connected with the Society of Friends, or Quakers, who perform or have charge of the marriage ceremony according to their rites and ceremonies.

741.08 Marriage not to be solemnized without a license.—

Before any of the persons named in s. 741.07 shall solemnize any marriage, he or she shall require of the parties a marriage license issued according to the requirements of s. 741.01, and within 10 days after solemnizing the marriage he or she shall make a certificate thereof on the license, and shall transmit the same to the office of the county court judge or clerk of the circuit court from which it issued.

Summary of Attorney General Opinion 91-70 (September 18, 1991)

Does s. 117.05(6)(d), F.S., prohibit a notary public from solemnizing the rites of matrimony of persons related by blood or marriage to the notary public?*

Section 117.05(6)(d), F.S., as amended effective January 1, 1992, [and further amended effective April 16, 1992] does not prohibit a notary public from solemnizing the rites of matrimony of persons related by blood or marriage to the notary public.

According to Robert A. Butterworth, Attorney General of the State of Florida,

"Section 117.05(6)(d) . . . prohibits a notary public from notarizing the signature of a relative on a document. In solemnizing the rites of matrimony and certifying on the marriage license that he has solemnized the marriage, the notary is not notarizing the signature of the relative on a document. Accordingly, the prohibition contained in s. 117.05(6)(d) . . . would not appear to be applicable."*

* Now s. 117.107(11), Florida Statutes (1998 Supp.) (effective 1/1/99).

Q *I recently read educational materials from an organization which stated that, as a Notary Public, I am not allowed to refuse to perform notarial services when asked. Must I solemnize a marriage if I have a religious conviction against doing so?*

A No. You have the right to refuse to perform notary services for any number of reasons, including your own religious convictions. Of course, you should never exercise your authority in a discriminatory manner.

Q *Are witnesses required to sign the marriage certificate?*

A Although the marriage certificate has spaces for two witnesses to sign, witnesses are not specifically required by law. However, it is recommended that two witnesses, other than the Notary, sign the marriage certificate in the event that proof of the marriage ceremony is necessary in the future. Remember, though, you are not notarizing the signatures of the witnesses.

Q *May I perform a marriage ceremony in a different county than the one where the marriage license was issued?*

A Yes. A Florida marriage license is good in any county in Florida. However, after the marriage is solemnized, the license must be returned to the county that issued it for recording.

Q *May I perform a marriage ceremony while aboard a ship?*

A Yes – as long as the ship is in Florida waters at the time of the ceremony. The legal definition of “Florida waters” is somewhat complex, but is generally stated as three geographic miles from the coastline seaward on the Atlantic Ocean and nine geographic miles from the coastline seaward on the Gulf of Mexico. Determining the exact location of the ship is best left to the captain or someone qualified to make that judgment.

Many cruise ships prefer to conduct marriage ceremonies while safely docked in a Florida port. Then, the wedding party enjoys celebrating after the ship sails. Whether on a cruise ship or a private vessel, you should ensure that you are in Florida waters at the time of the marriage ceremony.

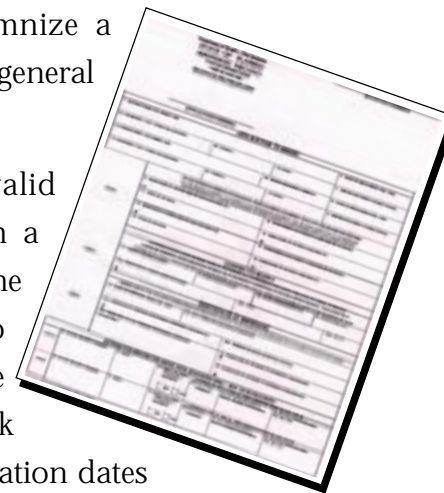
Q *May I participate in a ceremony for the renewal of marriage vows?*

A The renewal of marriage vows is not an official duty of a Notary Public. No marriage license is required because no marriage is taking place. This type of ceremony is usually done as part of a celebration of a wedding anniversary or as a recommitment by the parties to each other without any legal effect. You may participate in a renewal ceremony, but not in your official capacity as a Notary Public.

Performing Marriage Ceremonies

One of the most interesting, and somewhat unusual, duties of a Florida Notary Public is to perform marriage ceremonies. The law giving Notaries the authority “to solemnize the rites of matrimony” was enacted in 1861. To solemnize a marriage, you should follow this general procedure:

- (1) The couple must obtain a valid Florida marriage license from a county court judge or Clerk of the Circuit Court and present it to you before the marriage ceremony. You should check both the effective and the expiration dates of the license to ensure that the license is valid. You should also require identification if the bride and groom are not personally known to you.
- (2) You then perform the marriage ceremony. An example of a simple, civil ceremony is printed on page 6 in English and page 7 in Spanish. It may be personalized, and the bride and groom may even exchange their own vows. But, the couple’s vows must reflect their intentions to make a legally binding commitment to each other.
- (3) You are responsible for completing the certificate portion of the Marriage Record and returning it to the office that issued the license within 10 days after solemnizing the marriage.



Completing the Marriage Record



The Marriage Record form on page 5 is the official state record of the marriage and contains three sections:

- (1) **Application to Marry** [spaces 1-16]. This information is completed by the bride and groom when they apply for the marriage license. Notice that they must swear to the issuing official that the information provided is true. This is the notarization of the bride and groom's signatures done by a judge or a Deputy Clerk in the Office of the Clerk of Circuit Court.
- (2) **License to Marry** [spaces 17-20c]. This section is the authorization for the couple to be married and contains official information maintained by the Clerk's Office. This section also includes the effective and the expiration dates of the license, and must contain the seal of the Clerk of the Circuit Court to be valid.
- (3) **Certificate of Marriage** [spaces 21-25]. The required information in this section must be completed in **black** ink by the person performing the ceremony – the Notary Public. You will certify the date and location of the marriage, and add your signature, name, title, and address as the person performing the ceremony. Your notary seal must also be affixed in space 23b. Witnesses are optional, and if included, they should sign in black ink in spaces 24-25.

After the Certificate is completed, **you** are required to return the Marriage Record to the official who issued it within 10 days after the

A As a Notary Public, you are not expected to make a legal determination or a medical evaluation of a person's mental competency; but, you should use your own common sense to determine that both parties are willing participants and are mentally capable of entering into the marriage at the time of the ceremony. If you have any doubt about the willingness or mental state of either party, you must refuse to solemnize the marriage.

Q *May I solemnize the marriage of a couple when one of the parties is under the age of 18?*

A Yes, providing the couple produces a valid Florida marriage license signed and sealed by the Clerk of the Circuit Court, and providing that you have no reason to suspect that the marriage license was obtained by fraud. If either or both parties are minors, parental consent is required. It is the responsibility of the bride and groom to provide the proper documentation to the Clerk's Office when they apply for the marriage license.

Q *Is a Notary Public permitted to perform a marriage ceremony for two persons of the same sex?*

A No. Florida law prohibits same-sex marriages. A Notary Public or other authorized person may not perform a marriage ceremony without a marriage license issued in accordance with the requirements set forth in Chapter 741 of the Florida Statutes. The law provides that a marriage license may not be issued unless:

- both parties sign an affidavit reciting their true and correct ages,
- both parties meet the age requirement or comply with the special provisions set forth for those individuals under the age of 18, and
- one party is male and the other party is female.

Thus, Florida Notaries may not perform a marriage ceremony for two persons of the same sex. If you choose to participate in an unofficial ceremony "uniting" two persons of the same sex, you must not do so in your official capacity as a Notary Public of the State of Florida.



Q What fee may I charge when performing a marriage ceremony?

A The law provides that you may charge the same fee for solemnizing matrimony as the Clerks of the Circuit Court charge for the same service. That fee is set by law and is currently \$20.

Many Notaries provide additional services related to the wedding, such as flowers, reception, photographer, etc., and have a right to be compensated for these services. If you charge for extras, we recommend that you provide your customers with an itemized list of charges before the wedding ceremony in order to prevent any misunderstanding about your fees.

Q When “solemnizing the rites of matrimony,” is it acceptable for the Notary Public to complete the marriage certificate without actually performing a marriage ceremony?

A No. Completing the marriage certificate portion of the Marriage Record is not the same act as performing the marriage ceremony. Actually, the certificate is your way of certifying that you solemnized the marriage. You should not falsely certify that a ceremony was performed when, in fact, one was not.

The ceremony does not have to be in any particular form. Any form of ceremony to solemnize a marriage that the parties choose ordinarily suffices, as long as both parties agree to the marriage and make a legally binding commitment to each other. A marriage ceremony is usually performed for the sake of notoriety and certainty and must be conducted by a person authorized by law to perform the ceremony.

Q Should I perform a marriage ceremony if it appears that the bride or groom is not mentally capable of understanding his or her actions at the time of the ceremony? What if I suspect that the bride or groom is not a willing party to the marriage? What if one of the parties appears intoxicated or under the influence of some mind/behavior- altering substance?



Department of Health • Vital Statistics
STATE OF FLORIDA
MARRIAGE RECORD
TYPE IN UPPER CASE
USE BLACK INK
This document will appear next of Clerk, Circuit or County Court, appears former.

[STATE FEE NUMBER]

(APPLICATION NUMBER)

APPLICATION TO MARRY			1. DATE OF BIRTH (Month, Day, Year)		
1. GROOM'S NAME (Full legal name)	2. RESIDENCE - CITY, TOWN, OR LOCATION	3. COUNTY	4. STATE	5. BIRTHPLACE (State or Foreign Country)	
6. BRIDE'S NAME (Full legal name)	7. RESIDENCE - CITY, TOWN, OR LOCATION	8. COUNTY	9. STATE	10. BIRTHPLACE (State or Foreign Country)	
<small>WE THE OFFICIARY NAMED IN THIS CERTIFICATE, EACH FOR MYSELF OR MYSELF, BEING THAT THE INFORMATION PROVIDED ON THIS RECORD IS CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF, THAT NO LEGAL OBJECTION TO THE MARRIAGE FOR THE PURPOSE OF A LICENSE TO AUTHORIZE THE SAME IS KNOWN TO US AND HEREBY APPLY FOR LICENSE TO MARRY.</small>					
8. SIGNATURE OF GROOM (Sign full name using black ink)			9. SUBSCRIBED AND SWORN TO BEFORE ME ON (DATE)		
10. TITLE OF OFFICIAL			11. SIGNATURE OF OFFICIAL (Use black ink)		
12. SIGNATURE OF BRIDE (Sign full name using black ink)			13. SUBSCRIBED AND SWORN TO BEFORE ME ON (DATE)		
14. TITLE OF OFFICIAL			15. SIGNATURE OF OFFICIAL (Use black ink)		
LICENSE TO MARRY					
<small>AUTHORITY AND LICENSE IS HEREBY GIVEN TO ANY PERSONS DULY APPROVED BY THE CLERK OF THE STATE OF FLORIDA TO PERFORM A MARRIAGE CEREMONY WITHIN THE STATE OF FLORIDA AND TO SOLEMNIZE THE MARRIAGE OF THE ABOVE NAMED PERSONS. THIS LICENSE MUST BE USED ON OR AFTER THE APPROXIMATE DATE AND BEFORE THE EXPIRATION DATE IN THE STATE OF FLORIDA UNLESS SO RECORDED AND VALID.</small>					
16. COUNTY ISSUING LICENSE	17. DATE LICENSE ISSUED	18. DATE LICENSE EFFECTIVE	19. EXPIRATION DATE		
20. SIGNATURE OF COURT CLERK OR JUDGE		21. TITLE	22. BY E.C.		
CERTIFICATE OF MARRIAGE					
<small>I HEREBY CERTIFY THAT THE ABOVE NAMED GROOM AND BRIDE WERE JOINED BY ME IN MARRIAGE IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA.</small>					
23. DATE OF MARRIAGE (Month, Day, Year)			24. CITY, TOWN, OR LOCATION OF MARRIAGE		
25. SIGNATURE OF PERSON PERFORMING CEREMONY (Use black ink)			26. ADDRESS (if person performing ceremony)		
27. NAME AND TITLE OF PERSON PERFORMING CEREMONY (if necessary)			28. SIGNATURE OF WITNESS TO CEREMONY (Use black ink)		
			29. SIGNATURE OF WITNESS TO CEREMONY (Use black ink)		
INFORMATION BELOW FOR USE BY VITAL STATISTICS ONLY - NOT TO BE RECORDED					
30. GROOM'S SOCIAL SECURITY NUMBER	31. RACE	32. WERE YOU EVER PREVIOUSLY MARRIED?	33. IF ANSWER IS YES TO QUESTION 32, DATE COMPLETE FINAL DIVORCE AND SET OF THE MARRIAGE	34. DATE LAST MARRIAGE DULY BY	35. DATE LAST MARRIAGE DULY BY
36. BRIDE'S SOCIAL SECURITY NUMBER	37. RACE	38. WERE YOU EVER PREVIOUSLY MARRIED?	39. IF ANSWER IS YES TO QUESTION 38, DATE COMPLETE FINAL DIVORCE AND SET OF THE MARRIAGE	40. DATE LAST MARRIAGE DULY BY	41. DATE LAST MARRIAGE DULY BY

DH Form 7438-01 (Rev. 08-2008) Pub. 01-2008

ceremony. Most Clerk's Offices provide written instructions and a self-addressed envelope to accommodate this task. After the Marriage Record is recorded, the Clerk's Office will mail a certified copy to the couple.

If you or your customers have additional questions about the Marriage Record or the procedure to apply for a marriage license, please contact the Clerk of the Circuit Court, Marriage Division, in your county.

Sample Wedding Ceremony

Notary states, “Dearly beloved, we are gathered here today (tonight) to join this man and this woman in (holy) matrimony.”

Exchange of Vows

Notary asks the man, “(his name), do you take this woman to be your wife, to live together in (holy) matrimony, to love her, to honor her, to comfort her, and to keep her in sickness and in health, forsaking all others, for as long as you both shall live?”

Man answers, “I do.”

Notary asks the woman, “(her name), do you take this man to be your husband, to live together in (holy) matrimony, to love him, to honor him, to comfort him, and to keep him in sickness and in health, forsaking all others, for as long as you both shall live?”

Woman answers, “I do.”

Notary states, “Repeat after me.”

To the man: “I, (his name), take you (her name), to be my wife, to have and to hold from this day forward, for better, for worse, for richer, for poorer, in sickness and in health, to love and to cherish, till death do us part.”

To the woman: “I, (her name), take you (his name), to be my husband, to have and to hold from this day forward, for better, for worse, for richer, for poorer, in sickness and in health, to love and to cherish, till death do us part.”

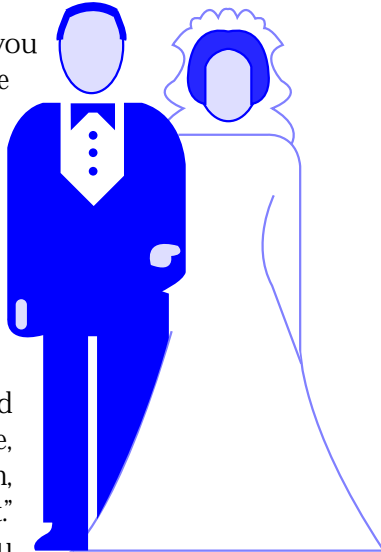
Exchange of Rings

Notary asks the man to place the ring on the woman's finger and to repeat the following, “I give you this ring as a token and pledge of our constant faith and abiding love.” (Repeat the same for the woman).

Pronouncement

Notary asks the couple to join hands, then declares, “By virtue of the authority vested in me under the laws of the State of Florida, I now pronounce you husband and wife.”

To the man: “You may kiss the bride.”



Q *My fiancé and I would like to have a special friend who lives in another state come to Florida to perform our marriage ceremony. Would that be acceptable if we have a Notary Public witness the ceremony and sign the license?*

A No. Florida law provides that only certain officials are authorized to solemnize marriage. Your friend may participate in the ceremony, for instance, by providing an inspirational message or prayer; but the vows and pronouncement should be done by an official authorized to solemnize marriage in Florida.

Q *What officials are authorized in Florida to perform a marriage ceremony?*

A Section 741.07, Florida Statutes, provides that the following persons are authorized to solemnize matrimony:

- State judicial officers (judges)
- Retired state judicial officers
- Notaries Public
- Regularly ordained ministers of the Gospel, elders, or other ordained clergy, if in good standing with his or her affiliate church or denomination
- Federal judges serving in a court with jurisdiction over a part of this state
- Clerks and Deputy Clerks of the Circuit Court
- Designated members of the Society of Friends (Quakers)

The following officials are not authorized to perform marriage in Florida:

- State Attorneys
- Judges of Compensation Claims
- Administrative Law Judges

Persons in these positions are not judicial officers of this state.



Q *Is a Florida Notary Public authorized to perform a marriage ceremony outside the state, or may a Notary from another state perform a marriage ceremony in Florida?*

A No. Florida is one of only three states (the other two are South Carolina and Maine) which authorize their Notaries Public to “solemnize the rites of matrimony.” A Florida Notary may perform a marriage ceremony providing the couple first obtain a marriage license from an authorized Florida official and may only perform a ceremony within the geographical boundaries of Florida. Thus, a Florida Notary may not perform a marriage ceremony in another state. Additionally, a Notary from another state, including South Carolina and Maine, may not perform a marriage ceremony in Florida. And, a Florida notary may not marry a couple who has obtained a marriage license from another state.

Q *May a Notary Public solemnize the marriage of two individuals when one party is not physically present, but participates in the ceremony via telephone or video transmission, or when one of the parties is not present and another individual represents that person in the ceremony, i.e., “marriage by proxy”?*

A No. Florida law does not allow marriage by proxy. Both parties must be physically present before the Notary Public for the solemnization of the marriage. The Notary should properly identify both parties prior to the ceremony.

Q *May I perform the marriage ceremony for a member of my family, specifically my daughter?*

A Yes. You may perform a marriage ceremony for a person who is related by blood or marriage. The prohibition against notarizing the signature of a spouse, son, daughter, mother, or father does not apply because you are not notarizing the signature of the bride and groom. You are only certifying that the couple have been joined in marriage according to the laws of the State of Florida. See *Attorney General Opinion, 91-70 (1991)* on page 15.



Ejemplo de Ceremonia en Español

El notario formula: “Queridos amigos aquí presentes, nos hemos reunido hoy (o esta noche) para unir a este hombre y a esta mujer en (sagrado) matrimonio.”

Intercambio de votos matrimoniales

El notario le pregunta al hombre: “¿(Nombre del novio) recibe usted a esta mujer para ser su esposa, para vivir juntos en (sagrado) matrimonio, para amarla, honrarla, consolarla y cuidarla, en salud y en enfermedad, guardándole fidelidad, durante el tiempo que duren sus vidas?”

El hombre responde: “Sí quiero.”

El notario le pregunta a la mujer: “¿(Nombre de la novia) recibe usted a este hombre para ser su esposo, para vivir juntos en (sagrado) matrimonio, para amarlo, honrarlo, consolarlo y cuidarlo, en salud y en enfermedad, guardándole fidelidad, durante el tiempo que duren sus vidas?”

La mujer responde: “Sí quiero.”

El notario formula: “Repita después de mí.”

Al hombre: “Yo (nombre del contrayente), te recibo a ti (nombre de la contrayente) para ser mi esposa, para tenerte y protegerte de hoy en adelante, para bien y para mal, en la riqueza y en la pobreza, en salud y en enfermedad, para amarte y cuidarte hasta que la muerte nos separe.”

El notario formula: “Repita después de mí.”

A la mujer: “Yo (nombre de la contrayente), te recibo a ti (nombre del contrayente) para ser mi esposo, para tenerte y protegerte de hoy en adelante, para bien y para mal, en la riqueza y en la pobreza, en salud y en enfermedad, para amarte y cuidarte hasta que la muerte nos separe.”

Intercambio de alianzas matrimoniales (anillos)

El notario le pide al hombre que ponga la alianza en el dedo de la mujer y que repita lo siguiente: “Yo te coloco esta alianza como señal y promesa de nuestro amor constante y fidelidad duradera.” (El notario repite lo mismo para la mujer).

Declaración

El notario le pide a la pareja que se tomen de las manos y declara: “En virtud de la autoridad que me conceden las leyes del Estado de la Florida, los declaro marido y mujer. “

Al hombre: “Puede besar a la novia.”

MARRIAGE Q&A

Some questions regarding the solemnization of marriage may require legal advice. If the following questions and answers do not address your concerns, you or your customers may need to seek the advice of an attorney.

Q My son's wedding next month will be performed by a Notary Public. Is a marriage ceremony performed by a Notary Public of the State of Florida "legal and binding"?

A There are many factors which determine the validity of a marriage. Assuming, though, that the Florida Notary Public is duly appointed and commissioned at the time of the ceremony, that both the bride and the groom are qualified to be joined in marriage, that the couple have obtained the required Florida marriage license, and that the marriage ceremony is performed in Florida, the marriage would be "legal and binding." Florida law will presume a marriage to be legal until otherwise shown.

Q Does Florida require blood tests prior to the issuance of a marriage license?

A No.

Q Does Florida recommend any premarital counseling prior to the issuance of a marriage license?

A Yes. During the 1998 Legislative Session, the Legislature passed the "Marriage Preparation and Preservation Act of 1998" in an effort to strengthen marriages, make stronger families, children and communities, and reduce the divorce rate. See Chapter 98-403, Laws of Florida. The Act recommends the completion of a premarital preparation course of not less than 4 hours taught by a provider who has been approved by the Clerk of the Circuit Court. The course may be completed by personal instruction or by video/electronic instruction. Providers must furnish a certificate of completion at the conclusion of the course, which should be submitted to the Clerk's Office when applying for a marriage license. For those couples who voluntarily complete this premarital preparation course, the state offers a reduced marriage license fee and no waiting period.

Additionally, the Legislature has authorized the Family Law Section of The Florida Bar to create a handbook explaining those sections of Florida law pertaining to the rights and responsibilities of marital partners to each other and to their children, both during a marriage and upon dissolution.

NOTE: For additional information about the premarital preparation course and providers in your area, or the family law handbook, please contact the Clerk of the Circuit Court, Marriage Division, in your county.

Q Is there a waiting period for the issuance of the marriage license?

A Yes. Effective January 1, 1999, there is a 3-day delay in the effective date of the marriage license if the couple does not participate in a premarital preparation course meeting the requirements specified in law and whose provider is registered with the Clerk of the Circuit Court. Exceptions to the delayed effective date must be granted to non-Florida residents seeking a marriage license from the state and for individuals asserting hardship who have been granted a waiver by a county court judge.

Q What is the county/state fee for obtaining a marriage license?

A Florida law specifies that the marriage license fee is \$88.50. For all couples who complete the premarital preparation course, there is a reduction of \$32.50, making the marriage license cost \$56.00 for these couples.

Q Occasionally, when I am scheduled to perform a marriage ceremony, the bride and groom forget to bring their marriage license with them to the ceremony. What should I do in this instance?

A The law states that the official "shall require of the parties a marriage license" before the solemnization of the marriage. That means that you should take possession of the marriage license before you perform the ceremony. Remember, you must also complete your portion and return the Marriage Record to the county for recording. If the couple forgets their marriage license or has not yet obtained a license, you may **not** solemnize the marriage.



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from the 1997 Florida Statutes and the 1998 Supplement to the Florida Statutes

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(2) Any marriage which may be had and solemnized among the people called "Quakers," or "Friends," in the manner and form used or practiced in their societies, according to their rites and ceremonies, shall be good and valid in law; and wherever the words "minister" and "elder" are used in this chapter, they shall be held to include all of the persons connected with the Society of Friends, or Quakers, who perform or have charge of the marriage ceremony according to their rites and ceremonies.

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SUMMARY OF ATTORNEY GENERAL OPINION 91-70

(September 18, 1991)

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According to Robert A. Butterworth, Attorney General of the State of Florida,

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