

## **7 FAM 1450 MARRIAGE OF U.S. CITIZENS ABROAD**

*(CT:CON-151; 01-11-2007)  
(Office of Origin: CA/OCS/PRI)*

### **7 FAM 1451 INTRODUCTION TO MARRIAGE ABROAD**

*(CT:CON-119; 12-01-2005)*

Consular officers are frequently approached for assistance by U.S. citizens planning to be married abroad. Our citizens often harbor misconceptions about the authority and permissible actions of consular officers with respect to marriage abroad. This subchapter provides guidance. For questions concerning marriage and name changes, see 7 FAM Appendix 1300 C.

**Note:** The purpose of this subchapter is to give you some familiarity with general concepts and terms related to marriage. You should not attempt to interpret foreign or U.S. laws on this subject, including U.S. state law. Please address your questions about the law to CA/OCS/PRI at ASKPRI@state.gov. We will consult with the Office of the Legal Adviser and state authorities as appropriate. Inquiries received by domestic Passport Agencies should be referred to CA/PPT/PAS.

### **7 FAM 1452 AUTHORITIES**

*(CT:CON-119; 12-01-2005)*

The authority of consular officers related to marriage is found at 22 CFR 52.1, 22 CFR 52.2, and 22 CFR 52.3.

### **7 FAM 1453 ROLE OF CONSULAR OFFICER**

#### **7 FAM 1453.1 What Consular Officers Can Do**

*(CT:CON-119; 12-01-2005)*

- a. The role of the consular officer is now limited to providing information obtained from foreign officials on requirements for local marriages and performing notarial and authentication services.

- b. Prior to November 9, 1989, consular officers, when requested to do so, could make certain that foreign marriages were effective for purposes of U.S. law by acting as official witnesses to the marriage, when one of the contracting parties was a U.S. citizen, pursuant to the authority of Section 31 of the Act of June 22, 1860 (12 Stat. 79; 22 U.S.C. 4192). The Act also provided for issuance of an official certificate of witness to such marriage.
- c. Section 31 was repealed, effective February 16, 1990, by Section 123 of the FY 1990-1991 Foreign Affairs Authorization Act.
- d. Certificates of Witness to Marriage, issued by consular officers pursuant to Section 31 of the Act of June 22, 1860, prior to its repeal, remain valid. Such certificates, using the most recent edition of Form FS-87, were issued from when it was revised in October 1939, until November 9, 1989.

## **7 FAM 1453.2 What Consular Officers Can't Do**

*(CT:CON-119; 12-01-2005)*

- a. Diplomatic and Consular officers and U.S. Ambassadors cannot conduct marriage ceremonies.
- b. You cannot issue any official certificate with respect to marriage laws, even if knowledgeable about the host country laws of marriage (22 CFR 52.3).
- c. You cannot make any official certification about the status or eligibility to marry of persons residing in the United States who propose to be married abroad, or about the laws of the United States or of any of the fifty States or Territories about eligibility for marriage or the solemnization of a marriage.
- d. You cannot give an official or authoritative opinion on matters of local (host country) law and practices to parties proposing to be married abroad.

## **7 FAM 1454 INFORMATION ON MARRIAGE ABROAD**

*(CT:CON-122; 12-20-2005)*

- a. Posts should have available a copy of the consular district's local laws on marriage (see 7 FAM 1133.4-2).
- b. The Department of State, Bureau of Consular Affairs Internet page includes the following materials about marriage abroad:

- Marriage and Divorce
- Marriage feature
- Country Specific Marriage Information
- Marriage to a foreign national
- See also 7 FAM Exhibit 1454 Marriage of U.S. Citizens Abroad

- c. U.S. embassies and consulates should prepare and provide inquirers with information regarding the legal requirements for marriage under the laws of the host government in their consular jurisdiction. Such information may also be posted on your consular section web page. You should also include or link to appropriate information on U.S. visa requirements for foreign spouses/fiancées.
- d. Additional resources from U.S. Citizenship and Immigration Services (USCIS):

- How Do I Bring My Fiancé to the U.S.?
- How Do I Change My Fiancé's Status to LPR?
- Apply for Immigration Benefits as a Battered Spouse

## **7 FAM 1455 AFFIDAVIT OF ELIGIBILITY TO MARRY**

### **7 FAM 1455.1 Foreign Countries' Requirements**

*(CT:CON-151; 01-11-2007)*

- a. Some countries require persons who wish to marry to provide written proof, issued by governmental authority, that there is no legal impediment to the marriage. No such document, or governmental authority to issue such document, exists in the United States.
- b. In consular districts with such requirements, a notarized statement from the U.S. citizen party to the marriage, affirming that the citizen is free to marry, often is accepted in lieu of a governmental statement.
- c. Posts may wish to ascertain informally, when such requirement is present, whether the host government would consider amending its own marriage license/registration requirements to permit the parties to the marriage to attest that they are free to marry.
- d. See 7 FAM 830 and 7 FAM 850 for general guidance on notarial services and affidavits.*

## 7 FAM 1455.2 Form of Affidavit or Sworn Statement

*(CT:CON-122; 12-20-2005)*

When a party to a marriage is required to provide a notarized statement of eligibility to marry, the document must contain sufficient information to satisfy the local authorities. After ascertaining what is acceptable; posts may wish to prepare, for use in their own consular district, an appropriate form of such a document, with CA/OCS/ACS guidance as necessary. Depending on the frequency of its use, posts may wish to reproduce it and keep an adequate supply in stock. Posts may wish to use the following sample affidavit format as a guide:

Venue

Name of country (Canada);

Name of province (Province of Ontario);

Name of city (City of Ottawa); and

Name of Foreign Service post (Embassy of the United States of America).

Jurat

Subscribed and sworn to before me on (date) by (Name of Affiant)

I (name of affiant), do (swear or affirm) that

I was born on (date of birth) at (place of birth (city, state/province, country)).

I reside at (address)

[INCLUDE APPLICABLE TEXT]

I have never been married.

I was married on (date) at (place) to (name). That marriage was dissolved by divorce on (date) at (place (city, state/province, country), (Name of Court)

I was married on (date) at (place) to (name). (Name) died on (date) at (place).

Affiant Signature Block

Signature of Affiant

Typed or Printed Name of Affiant

date

Notarizing Officer Signature Block Signature of Notarizing Officer Typed Name of Notarizing Officer Title of Notarizing Officer (SEAL)
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## **7 FAM 1455.3 Execution of Affidavit or Sworn Statement**

*(CT:CON-119; 12-01-2005)*

An affidavit (or sworn statement) of eligibility to marry is executed as any other affidavit or notarized statement (see 7 FAM 850).

**NOTE:** "Affidavit" may or may not be the correct term under local law. "Statement" may be more appropriate.

## **7 FAM 1455.4 Form Letter on Marriage Status**

*(CT:CON-122; 12-20-2005)*

Many countries decline to give their nationals any sort of certificate or affidavit, providing instead a form letter which explains that they have no information regarding their national's marital status. Posts should consider the use of a form letter as an alternative to an affidavit where it is acceptable to the host country, and should use such a letter in any case where there is evidence that affidavits may be used for unlawful purposes, such as marriage fraud.

## **7 FAM 1456 MARRIAGE BY PROXY OR BY CONTRACT WITHOUT CEREMONY**

### **7 FAM 1456.1 Proxy Marriage**

*(CT:CON-119; 12-01-2005)*

Consular officers are not authorized to give legal advice about the validity of proxy marriages without the benefit of a civil or ecclesiastical ceremony. Inquirers should be directed to obtain information about the validity of proxy marriages from officials of the U.S. State(s) or other country where the marriage has been or is to be performed.

### **7 FAM 1456.2 Contract Marriage**

*(CT:CON-119; 12-01-2005)*

Consular officers are not authorized to advise inquirers about the validity of marriages contracted by parties without the benefit of either civil or ecclesiastical ceremony. Such information should come from officials of the State(s) or other country where the contracting parties are or have been residing.

## **7 FAM 1457 VALIDITY OF MARRIAGES PERFORMED BY FOREIGN CONSULS**

*(CT:CON-119; 12-01-2005)*

The validity of marriages performed by foreign consuls depends on local laws. In the United State, this means state law.

See:

- Marriage Laws of the Fifty States

### **7 FAM 1457.1 Authentication of Foreign Marriage and Divorce Certificates**

*(CT:CON-122; 12-20-2005)*

- a. Authentication is a governmental act (rather than a notarial act) by which a consular officer certifies to the genuineness of a foreign document (by verifying the signature, seal, and position of a foreign official (see 7 FAM 870 and 22 CFR 92.36).
- b. The consular officer must compare the foreign official's seal and signature on the document you are asked to authenticate with a specimen of the same official's seal and signature on file either in the Foreign Service office (U.S. embassy or consulate) or in a foreign public office to which you have access. If no specimen is available to you, you should require that each seal and signature be authenticated by some higher official or officials of the foreign government until there appears on the document a seal and signature which you can compare with a specimen available to you. See 22 CFR 92.37. Posts should exercise internal controls in the safekeeping and storage of specimens of the seals and signatures of foreign officials and the granting of access to such specimens. See the Consular Management Handbook on the Bureau of Consular Affairs Intranet page which will soon be superceded by 7 FAH-1.
- c. Under 22 CFR 52.2 consular officers are authorized to authenticate foreign marriage and divorce decrees. In the body of the certificate of authentication, you must include the following statement:

“For the contents of the annexed document, the Consulate (General) assumes no responsibility.”

- d. The fee charged for the authentication is that prescribed by the current Schedule of Fees, assessed separately for the authentication of each document presented.
- e. In countries party to the Hague Apostille Convention (7 FAM 876), consular officers should refer inquiries to the host country authority competent to issue apostille certificates, rather than providing consular authentication of the document.
- f. Note: Consular authentication of the seal and signature of a foreign official on a foreign marriage record in no way attests to the validity of the contents of the document. You are only authenticating the seal and signature. Questions regarding the validity of the document should be directed to the foreign authority which issued the marriage record or the foreign custodian of marriage records.
- g. Questions as to whether the foreign marriage or divorce record will be recognized or legally enforceable in court is a matter to be determined by the court in the jurisdiction where the document is presented.

## **7 FAM 1457.2 Marriage of U.S. Citizens on High Seas**

*(CT:CON-122; 12-20-2005)*

Consular officers should not give legal advice, or even a general statement, about the validity of marriages performed on board a vessel on the high seas because their validity and recognition depend upon the various requirements of local laws, as construed and interpreted by the courts. Consular officers do not authenticate signatures and seals on a document regarding a marriage performed on board a vessel on the high seas. This includes marriages performed on U.S. owned vessels and U.S. registered or U.S. owned vessels registered in a foreign country. Consular officers may perform notarial services related to such marriages, but should include the specific waiver language provided in 7 FAM 834 d. Questions about such marriages may be direct to CA/OCS/PRI (ASKPRI@state.gov).

## **7 FAM 1457.3 Void and Voidable Marriages**

*(CT:CON-119; 12-01-2005)*

A marriage that does not conform to the laws of the country or state in which it was performed generally is voidable and may be declared void by an appropriate authority, usually a court in the jurisdiction where the marriage

occurred. Prior to such judicial declaration, the marriage usually is considered valid for all purposes. Even after a marriage is voided, the children's status usually is not affected. Every state in the United States, for example, considers children of a void marriage to be legitimate. However, some marriages are considered void ab initio, as opposed to voidable. If you have questions about this subject, contact us at ASKPRI@state.gov.

## **7 FAM 1458 CERTIFICATES OF WITNESS TO MARRIAGE**

*(CT:CON-122; 12-20-2005)*

- a. With the repeal of the old 1860 statute on "solemnization of marriages", 22 U.S.C. 4192 on November 9, 1989, U.S. consular officers ceased issuing "Certificates of Witness to Marriage."
- b. Copies of certificates of witness to marriage are available from;

The Office of Passport Services  
Vital Records Section  
CA/PPT/PS/PC Suite 510  
1111 19th Street N.W.  
Washington, D.C. 20522  
202-955-0307

For additional information see the Passport Services section on the Bureau of Consular Affairs Internet page . Inquirers should submit a signed and notarized written request including all pertinent facts of the occasion along with a copy of the requester's valid photo identification. If the requester possesses a copy of the Certificate of Witness to Marriage, he or she should enclose a photocopy to aid in our file search. The following information must be included in the request:

### **General Information to include in signed, notarized request ...**

- Date of request
- Purpose of request
- Document Requested: Certificate of Witness of Marriage
- Number of documents requested
- Current mailing address and daytime telephone number of requester

### **Facts of Marriage**

- Name (at marriage)
- Date of birth/death/marriage



- Country Where Marriage Occurred
- Father’s name
- Father’s date and place (state/country) of birth
- Mother’s name
- Mother’s date and place (state/country) of birth

### **Fees**

See 22 CFR 22.1 Schedule of Fees for Current Fees.

### **Submit Request To:**

U.S. Department of State  
Passport Services  
Vital Records Section  
1111 19th Street, NW, Suite 510  
Washington, DC 20522-1705

### **Turnaround Time**

Most consular vital records must be retrieved from off-site repositories, including the National Archives. Thus, the time it takes varies greatly based on the type of record and date of occurrence, making it difficult to give a definite timeframe. However, in most cases, turnaround is four to eight weeks.

### **Expedited Service**

Overnight delivery can save about ten days processing time, but there is no way to reduce the retrieval time. Overnight return via express courier services is available for an additional \$10.00 or the requester may provide a pre-paid airbill for the carrier of choice.

### **Additional Information**

The Vital Records Section can be reached at (202) 955-0307.

## **7 FAM 1459 FORCED AND ARRANGED MARRIAGES OF ADULTS**

*(CT:CON-122; 12-20-2005)*

- a. Most cases of forced marriage involve young women and girls aged between 13 and 30 years, although there is evidence to suggest that as

many as 15 per cent of victims are male. The Department considers a forced marriage to be a violation of basic human rights. The issue of forced marriage is addressed in the annual Human Rights Reports. Some countries have issued travel advice and other reports regarding forced marriage.

- b. Arranged marriages have been a long-standing tradition in many cultures and countries. The Department respects this tradition, and makes a very clear distinction between a forced marriage and an arranged marriage. In arranged marriages, the families of both spouses take a leading role in arranging the marriage but the choice whether to accept the arrangement remains with the individuals.
- c. In a forced marriage, at least one party does not consent or is unable to give informed consent to the marriage, and some element of duress is generally present. As 7 FAM 1741 explains, the Department considers a forced marriage to be a violation of basic human rights. While forced marriages are known to occur worldwide, they are more prevalent in some countries and within some cultural and religious groups. If there is a cultural bias or a history of forced marriages in your consular district, you should be prepared to take appropriate action on these cases when U.S. citizen/nationals are involved.
- d. See 7 FAM 160 Family Abuse Situations, 7 FAM 180 Refuge: Temporary Emergency Protection of Private U.S. Nationals, and 7 FAM 1740 Forced Marriage of Minors.
- e. Post reporting regarding American Citizens Services consular protection activities and incidents involving forced or arranged marriages should include CASC, KWMN and PHUM TAGS.

## **7 FAM EXHIBIT 1454**

### **MARRIAGE OF U.S. CITIZENS ABROAD**

*(CT:CON-122; 12-20-2005)*

**DISCLAIMER:** THE INFORMATION IN THIS CIRCULAR IS PROVIDED FOR GENERAL INFORMATION ONLY AND MAY NOT BE TOTALLY ACCURATE IN A PARTICULAR CASE. QUESTIONS INVOLVING INTERPRETATION OF SPECIFIC U.S. STATE OR FOREIGN LAWS SHOULD BE ADDRESSED TO LEGAL COUNSEL IN THAT JURISDICTION.

#### **a.** Who May Perform Marriages Abroad

U.S. diplomatic and consular officers are **NOT** permitted to perform marriages (Title 22, Code of Federal Regulations 52.1). Marriages abroad are almost always performed by local (foreign) civil or religious officials.

As a rule, marriages are not performed on the premises of an American embassy or consulate. The validity of marriages abroad is not dependent upon the presence of an American diplomatic or consular officer, but upon adherence to the laws of the country where the marriage is performed. Consular officers may authenticate foreign marriage documents.

#### **b.** Validity of Marriages Abroad

In general, marriages which are legally performed and valid abroad are also legally valid in the United States. Inquiries regarding the validity of a marriage abroad should be directed to the attorney general of the state in the United States where the parties to the marriage live.

#### **c.** Foreign Laws and Procedures

The embassy or tourist information bureau of the country in which the marriage is to be performed is the best source of information about marriage in that country. Some general information on marriage in a limited number of countries can be obtained from Overseas Citizens Services. In addition, U.S. embassies and consulates abroad frequently have information about marriage in the country in which they are located.

#### **d.** Residence Requirements

Marriages abroad are subject to the residency requirements of the country in

which the marriage is to be performed. There is almost always a lengthy waiting period.

**e.** Documentation and Authentication

Most countries require that a valid U.S. passport be presented. In addition, birth certificates, divorce decrees, and death certificates are frequently required. Some countries require that the documents presented to the marriage registrar first be authenticated in the United States by a consular official of that country. This process can be time consuming and expensive.

**f.** Parental Consent

The age of majority for marriage varies from one country to another. Persons under the age of 18 must, as a general rule, present a written statement of consent executed by their parents before a notary public. Some countries require the parental consent statement to be authenticated by a consular official of that foreign country in the United States.

**g.** Affidavit of Eligibility to Marry

All civil law countries require proof of legal capacity to enter into a marriage contract in the form of certification by competent authority that no impediment exists to the marriage. No such document exists in the United States. Unless the foreign authorities will allow such a statement to be executed before one of their consular officials in the United States, it will be necessary for the parties to a prospective marriage abroad to execute an affidavit at the U.S. embassy or consulate in the country in which the marriage will occur stating that they are free to marry. Some countries also require witnesses who will execute affidavits to the effect that the parties are free to marry.

**h.** Additional Requirements

Many countries, like the United States, require blood tests.

Some countries require that documents presented to the marriage registrar be translated into the native language of that country.

**i.** Loss of U.S. Nationality

In some countries, marriage to a national of that country will automatically make the spouse either a citizen of that country or eligible to become

naturalized in that country expeditiously. The automatic acquisition of a second nationality will not affect U.S. citizenship. However, naturalization in a foreign country on one's own application or the application of a duly authorized agent may cause the loss of U.S. citizenship. Persons planning to apply for a foreign nationality should contact an American embassy or consulate for further information.

***j.*** Marriage to an Alien

Information on obtaining a visa for a foreign spouse may be obtained from any office of the Bureau of Citizenship and Immigration Services in the Department of Homeland Security, U.S. embassies and consulates abroad, or the Department of State Visa Office, Washington, DC 20520-0113. General information regarding visas may be obtained by calling the Visa Office on 202-663-1225.