

ASSEMBLY BILL

No. 1967

**Introduced by Assembly Members Leno, Goldberg, Kehoe,
Laird, and Lieber**

(Principal coauthor: Senator Kuehl)

**(Coauthors: Assembly Members Chan, Dymally, Firebaugh,
Hancock, Koretz, Levine, Longville, Montanez, Nation,
Oropeza, Simitian, Steinberg, Wiggins, and Yee)**

February 12, 2004

An act to amend Sections 300, 301, and 302 of the Family Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1967, as introduced, Leno. Gender-neutral marriage.

Existing law provides that marriage is a personal relation arising out of a civil contract between a man and a woman. Existing law provides for the issuance of marriage licenses, as specified. Existing law further provides that only marriage between a man and a woman is valid or recognized in this state.

This bill would enact the "California Marriage License Nondiscrimination Act," which would instead provide that marriage is a personal relation arising out of a civil contract between 2 persons. The bill would make conforming changes with regard to consent, and would make a specified finding and declaration.

By adding to the duties of county employees, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 “California Marriage License Nondiscrimination Act.”

3 SEC. 2. Section 300 of the Family Code is amended to read:

4 300. (a) Marriage is a personal relation arising out of a civil
5 contract between ~~a man and a woman~~ *two persons*, to which the
6 consent of the parties capable of making that contract is necessary.
7 Consent alone does not constitute marriage. Consent must be
8 followed by the issuance of a license and solemnization as
9 authorized by this division, except as provided by Section 425 and
10 Part 4 (commencing with Section 500).

11 (b) *Where necessary to implement the rights and*
12 *responsibilities of spouses under the law, gender-specific terms*
13 *shall be construed to be gender-neutral, except with respect to*
14 *Section 308.5.*

15 SEC. 3. Section 301 of the Family Code is amended to read:

16 301. ~~An~~ *Two* unmarried ~~male~~ *persons* of the age of 18 years
17 or older, ~~and an unmarried female of the age of 18 years or older,~~
18 ~~and~~ *who are* not otherwise disqualified, are capable of consenting
19 to and consummating marriage.

20 SEC. 4. Section 302 of the Family Code is amended to read:

21 302. An unmarried ~~male or female~~ *person* under the age of 18
22 years is capable of consenting to and consummating marriage if
23 each of the following documents is filed with the county clerk
24 issuing the marriage license:

25 (a) The written consent of the parents of each underage person,
26 or of one of the parents or the guardian of each underage person.



1 (b) A court order granting permission to the underage person
2 to marry, obtained on the showing the court requires.

3 SEC. 5. The Legislature finds and declares that this act does
4 not amend or modify Section 308.5 of the Family Code, which
5 addresses marriages from other jurisdictions, as enacted by an
6 initiative measure.

7 SEC. 6. Notwithstanding Section 17610 of the Government
8 Code, if the Commission on State Mandates determines that this
9 act contains costs mandated by the state, reimbursement to local
10 agencies and school districts for those costs shall be made pursuant
11 to Part 7 (commencing with Section 17500) of Division 4 of Title
12 2 of the Government Code. If the statewide cost of the claim for
13 reimbursement does not exceed one million dollars (\$1,000,000),
14 reimbursement shall be made from the State Mandates Claims
15 Fund.

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17 CORRECTIONS

18 **Heading — Lines 1 and 2.**

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