

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Engrossed: H3/19/97

## A Bill

ACT 1044 OF 1997  
HOUSE BILL 2215

4  
5 By: Representative Wren  
6  
7

### For An Act To Be Entitled

8  
9 "AN ACT TO AMEND ARKANSAS CODE 16-119-107 TO PROVIDE A  
10 MORE EFFICIENT METHOD OF RESTORATION OF MARRIAGE RECORDS;  
11 AND FOR OTHER PURPOSES."  
12

### Subtitle

13  
14 "TO PROVIDE A MORE EFFICIENT METHOD OF  
15 RESTORATION OF MARRIAGE RECORDS."  
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 SECTION 1. Arkansas Code 16-119-107(b) is amended to read as follows:

20 "(b)(1) In case the person who solemnized the marriage has died  
21 or resides beyond the limits of this state so that the certificate  
22 cannot be obtained, then the parties between whom the marriage was  
23 originally solemnized, or the one surviving if either be dead, or their  
24 heirs, by their guardian, in case both the parties are dead, wishing to  
25 reinstate the record of the marriage may file their petition in the  
26 office of the clerk of the circuit county court, ~~directed to the~~  
27 ~~chancellor of the court~~, setting forth therein the substance of the  
28 original marriage certificate or the time when and the person by whom  
29 the marriage was performed, in what capacity the person acted, whether  
30 as judge, justice of the peace, minister, or priest, and that the  
31 certificate, with the record thereof, was lost, destroyed, or burned.

32 (2) Upon hearing the petition, if the county court is advised of  
33 the truth of the matters contained in the petition, it shall decree that  
34 the marriage record be reinstated upon the records of the recorder's  
35 office, and the clerk of the court shall certify a copy of the petition  
36 and decree down to the recorder, who shall record them.

1 (3) The marriage record shall relate back and have the same force  
2 and effect from the time when the marriage ceremony was first performed  
3 as though the original record had never been lost, destroyed, or burned.

4 (4) No such decree shall be made or rendered by the court unless:

5 (A) The petition has been filed in the office of the clerk  
6 of the court, verified by the affidavit of the petitioner or some other  
7 reputable person for him, her, or them, ~~at least thirty (30) days before~~  
8 ~~the commencement of the term of the court to which the petition is~~  
9 ~~addressed~~; and

10 (B) The petitioner has caused a notice of the intended  
11 application to be published in some newspaper printed in the county at  
12 least six (6) weeks before ~~the commencement of the term~~ filing the  
13 petition with the county court calling on all persons who might feel  
14 themselves concerned to ~~come forward on or before the second day of the~~  
15 ~~next term and show cause, if any they can,~~ file notice with the county  
16 court as to why the record should not be reinstated upon the records of  
17 the recorder of the county. If no newspaper is printed in the county at  
18 the time of the publication, then the publication may be made in some  
19 newspaper printed in the city of Little Rock, Arkansas."  
20

21 SECTION 2. All provisions of this act of a general and permanent  
22 nature are amendatory to the Arkansas Code of 1987 Annotated and the  
23 Arkansas Code Revision Commission shall incorporate the same in the  
24 Code.

25  
26 SECTION 3. If any provision of this act or the application  
27 thereof to any person or circumstance is held invalid, such invalidity  
28 shall not affect other provisions or applications of the act which can  
29 be given effect without the invalid provision or application, and to  
30 this end the provisions of this act are declared to be severable.

31  
32 SECTION 4. All laws and parts of laws in conflict with this act  
33 are hereby repealed.

34  
35 SECTION 5. EMERGENCY. It is hereby found and determined by the  
36 General Assembly that the present statutory procedure for the

1 restoration of lost marriage records requires chancery court action  
2 which results in more expense to the parties and more time delay than is  
3 necessary; that a more inexpensive and efficient mechanism would be to  
4 utilize the county court; that this act grants that power to the county  
5 court; and that this act should go into effect as soon as possible in  
6 order that those couples whose marriage records have been lost can use  
7 an expedited procedure for reestablishing their marriage relationship as  
8 soon as possible. Therefore, an emergency is declared to exist and this  
9 act being immediately necessary for the preservation of the public  
10 peace, health and safety shall become effective on the date of its  
11 approval by the Governor. If the bill is neither approved nor vetoed by  
12 the Governor, it shall become effective on the expiration of the period  
13 of time during which the Governor may veto the bill. If the bill is  
14 vetoed by the Governor and the veto is overridden, it shall become  
15 effective on the date the last house overrides the veto.

16 /s/Rep. Wren

17  
18 APPROVED:4-02-97  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35