

Term of validity for marriage license applications

Number: AGO 93-58

Date: September 22, 1995

Subject:
Term of validity for marriage license applications

Mr. Edward E. Hedstrom
Attorney for Clerk of
Circuit Court
Post Office Box 1354
Palatka, Florida 32178

RE: CLERKS OF COURT--CLERKS OF CIRCUIT COURT--MARRIAGE LICENSE
APPLICATION--MARRIAGE LICENSES--MARRIAGE--term of validity for marriage license
applications. ss. 382.021(2) and 741.041, F.S.

Dear Mr. Hedstrom:

As attorney for the Clerk of Circuit Court in Putnam County you have asked for my opinion on substantially the following question:

How long is a marriage license application valid?

In sum:

An application for a marriage license is valid for 30 days during which time the applicants must present and file with the clerk or judge the information required by s. 741.04, F.S. After satisfying the provisions of s. 741.04, F.S., a marriage license will be issued and a marriage ceremony may be performed within the next 60 days.

According to your letter, the clerk of court is concerned because ss. 382.021(2) and 741.041, F.S., appear to provide different periods of validity for marriage license applications.

Pursuant to s. 741.041, F.S.:

"Marriage license applications shall be valid only for a period of 30 days after receipt by an applicant, and no clerk of the circuit court shall issue a license for the marriage of two people more than 30 days after the application was received by the applicant." (e.s.)

This section provides for the validity of marriage license applications for a period of 30 days after their issuance. The application for a marriage license is a separate and distinct procedure, involving separate fees, [1] from the actual issuance of a license.[2]

Following the application for a marriage license an applicant must present and file with the clerk

the following information:

"[A]n affidavit in writing, signed by both parties to the marriage, made and subscribed before some person authorized by law to administer an oath, reciting the true and correct ages of such parties; unless both such parties shall be over the age of 18 years, except as provided in s. 741.0405; and unless one party is a male and the other party is a female."

After reviewing this information and securing any additional consent which the statutes may require,[3] the clerk must issue a marriage license.

Thus, the period of 30 days referred to in s. 741.041, F.S., refers to length of time a marriage license application is valid. Pursuant to the statute, no marriage license may be issued if more than 30 days have elapsed since the application was received by the applicant.

With regard to the marriage license itself, s. 382.021(2), F.S., states in part that:

"[M]arriage licenses shall be valid only for a period of 60 days after issuance, and no person shall perform any ceremony of marriage after the expiration date of such license. The county court judge or clerk of the circuit court shall recite on each marriage license the final date that such is so valid."

This statute relates strictly to marriage licenses and does not affect the validity of a marriage license application. Therefore, it is my opinion that a marriage license application is valid for 30 days and the marriage license itself is valid for a period of 60 days.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] Section 741.01, F.S., prescribes separate fees for the application for a marriage license and for the marriage license itself. *And see* AGO 79-96 (If the clerk of the circuit court receives an application for the issuance of a marriage license, but thereafter no oath is prepared and administered and the marriage license is not issued, sealed, and recorded, the proper amounts of the fees that should be charged and collected by the clerk are \$2 pursuant to s. 741.01[1], F.S.; \$5 pursuant to s. 741.01[2]; and \$3 pursuant to s. 741.02, F.S., or a total amount of \$10. If the clerk of the circuit court receives an application for the issuance of a marriage license and thereafter prepares and administers the oath; issues, seals, and records the marriage license; and provides a certified copy thereof, the proper amounts of fees to be charged and collected are \$2 pursuant to s. 741.01[1]; \$5 pursuant to s. 741.01[2]; \$3 pursuant to s. 741.02; and \$10 for services rendered pursuant of s. 28.24[29], F.S., or a total amount of \$20.)

[2] *Cf.* Metropolitan Dade County v. Shelton, 375 So.2d 32 (4 D.C.A. Fla., 1979); AGO 76-60.

And see generally 55 C.J.S. Marriage s. 25a.

[3] Section 741.0405, F.S., authorizes the issuance of a marriage license by the clerk of court to persons under the age of 18, "if there is first presented and filed with him the written consent of the parents or guardian of such minor to such marriage, acknowledged before some officer authorized by law to take acknowledgments and administer oaths."