

Marriage License, When to Issue—Marriage, Where to Be Solemnized.

A marriage should be solemnized in the county which issues the license, but if such is not the case, the legality of the marriage is not thereby affected.

October 5, 1920.

Mr. Wm. L. Bullock,
County Attorney,
Conrad, Montana.

Dear Sir:

This is in reply to your letter of October first, 1920, in which you inquire as to the proper county for the return of a marriage license, the license having been originally issued in Pondera County but the marriage having been performed in Glacier County.

Section 3616 of the Revised Code of 1907 provides that marriages must be licensed, solemnized, authenticated and recorded as provided in this section, but non-compliance with its provisions does not invalidate any lawful marriage. Section 3618 provides that a license must be obtained from the clerk of the district court "of the county wherein the marriage is to take place." Section 2623 provides that the person solemnizing a marriage shall enter upon the license a certificate of such marriage, showing certain information. Within thirty days after such marriage has been solemnized, the license shall be returned to the clerk of the district court, who shall record the certificate in the same book where the marriage license is recorded. Section 3620 provides that the license issued by the clerk of the district court must be recorded in a book in his office suitable for that purpose.

The law contemplates that the license must be returned to the office from which it is issued. This, in your case, would be the clerk of the district court of Pondera County. There appears to be an irregularity in this particular instance in that the marriage was not solemnized in the county in which the license was issued. That, however, does not affect the legality of the marriage and is an irregularity of no serious consequence. I believe, however, that clerks of the district court should not issue a license unless they have assurance that the marriage will be performed in their own county.

Respectfully,

S. C. FORD,
Attorney General.