

Subject Marriage license application; probate harmless error rule

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Overview

Makes two temporary provisions passed during the COVID-19 pandemic permanent to allow marriage license applications to occur virtually and to allow the harmless error rule to apply in the probate of a will in Minnesota.

Summary

Section	Description
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1	Term of license; fee; premarital education.
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Replaces the existing law allowing one party to a marriage to apply in person for another party to provide a notarized statement attesting to the application and proof of age, with a provision that would allow the parties to do the oath virtually, and to accept electronic filings of the marriage license application.

The new provisions are retroactive to January 1, 2021, and would apply to the applications and oaths that occurred on or after that date. Separate laws in 2020 and 2021 provided this service to occur virtually on a temporary basis. (See Laws 2020, ch. 74, art. 1, § 18; and Laws 2021, ch. 1, § 1)

2	Harmless error.
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Amends the temporary harmless error rule that was passed in 2020, so that it no longer expires on February 15, 2021, making it a permanent part of the probate code. This provision would be retroactive to March 13, 2020, and apply to writings that occurred on or after that date since the previously passed law would have been in place and allowed writings on or after that date to have this rule apply.

The harmless error rule allows a court to consider evidence in a probate matter about whether or not all the formalities of a will have been met. The court may determine by clear and convincing evidence that the person making the document, such as a will or the revocation of the will, did intend for the document to be valid even if all the formal requirements for executing a will have not been met.

Section	Description
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	A number of states have adopted the rule in whole or part, including: California, Colorado, Hawaii, Michigan, Montana, New Jersey, South Dakota, Utah, and Virginia.
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