

## INSTRUCTIONS

### Power of Attorney: California Military Marriages

#### Family Code 420 (Chapter 476, Statutes of 2004)

- A member of the Armed Forces of the United States who is **stationed overseas and serving in a conflict or a war** and is unable to appear for the licensure and solemnization of the marriage may enter into that marriage by the appearance of an attorney-in-fact, commissioned and empowered in writing for that purpose through a power of attorney.
- The power of attorney must be completed and signed by the person stationed overseas serving in a conflict or war. The power of attorney form must be witnessed by **two** military officers **or** acknowledged by a notary public. If the form is acknowledged by a notary public, it is important to make sure the form has been acknowledged correctly as required in Civil Code Section 1183 & Probate Code 4122 (a copy of these sections and a power of attorney form are attached).
- The attorney-in-fact **and** the applicant (whomever is not stationed overseas serving in a conflict or a war) must personally appear together at the County Clerk's Office with valid picture identification to apply for the marriage license. Contact the County Clerk's Office at 714-834-2710 for office hours and fees.
- The **original** power of attorney form must be presented to the County Clerk's Office at the time the marriage license is issued.

- When applying for a marriage license under these provisions, only a public marriage license may be issued. A confidential marriage license may not be issued
- When the County Clerk's Office issues the marriage license, the attorney-in-fact will sign the marriage license as follows:

Example: Name of Applicant = John Alan Smith  
Name of Attorney-in-Fact (AIF) = Joseph Brown

(Signature on license) John Alan Smith, by: Joseph Brown, AIF

- Do not alter the marriage license or write any hand-written statement on the license. The only requirement for the license is that the original power of attorney be attached to the marriage license as a page 2 (similar to an amendment).
- The applicant (whomever is not stationed overseas serving in a conflict or a war) and the attorney-in-fact must participate in a ceremony – either a civil ceremony at the County Clerk's Office – or a ceremony somewhere else in California performed by a person as authorized in Family Code 400. The applicant (whomever is not stationed overseas serving in a conflict or a war), the attorney-in-fact, the person performing the ceremony, and at least one witness must be physically present at the marriage ceremony.
- This process cannot be used if both applicants are stationed overseas serving in a conflict or war.
- The original marriage license with the original power of attorney attached must be returned to the County Recorder of the County that issued the license for registration. The Recorder will register both the marriage license and the power of attorney. Certified copies of the marriage license will include a copy of the power of attorney.
- If you have any questions regarding this process, please contact the County Clerk's Office at 714-834-2710.

## **Copy of Civil Code 1183 & Probate Code 4122**

**Civil Code section 1183:** The proof or acknowledgment of an instrument may be made without the United States, before any of the following:

(a) A minister, commissioner, or charge d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made.

(b) A consul, vice consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made.

(c) A judge of a court of record of the country where the proof or acknowledgment is made.

(d) Commissioners appointed by the Governor or Secretary of State for that purpose.

(e) A notary public.

If the proof or acknowledgment is made before a notary public, the signature of the notary public shall be proved or acknowledged (1) before a judge of a court of record of the country where the proof or acknowledgment is made, or (2) by any American diplomatic officer, consul general, consul, vice consul, or consular agent, or (3) by an apostille (certification) affixed to the instrument pursuant to the terms of The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

**Probate Code section 4122.** If the power of attorney is signed by witnesses, as provided in Section 4121, the following requirements shall be satisfied:

(a) The witnesses shall be adults.

(b) The attorney-in-fact may not act as a witness.

(c) Each witness signing the power of attorney shall witness either the signing of the instrument by the principal or the principal's acknowledgment of the signature or the power of attorney.