

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL**

**June 3, 2015**

**Opinion No. 15-47**

**Solemnizing Marriages Outside Tennessee**

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**Question**

May a current or former elected official meeting the requirements of Tenn. Code Ann. § 36-3-301(a) solemnize a wedding ceremony outside Tennessee when executing a license issued by a Tennessee county clerk?

**Opinion**

No.

**ANALYSIS**

In Tennessee, solemnization of marriage is governed by statute. *Bryant v. Townsend*, 188 Tenn. 630, 633, 221 S.W.2d 949, 950 (1949). Tennessee Code Annotated § 36-3-301(a)(1) specifies by office the elected officials and former elected officials who “may solemnize the rite of matrimony.”<sup>1</sup> Tennessee Code Annotated § 36-3-301(a) imposes some qualifying requirements for the persons specified in § 36-3-301(a)(1).

A marrying couple must “present to the minister or officer a license under the hand of a county clerk in this state, directed to such minister or officer, authorizing the solemnization of a marriage between the parties.” Tenn. Code Ann. § 36-3-103(a). This license is a statutory requirement for valid marriages in Tennessee. *Harlow v. Reliance Nat’l*, 91 S.W.3d 243, 245–46 (Tenn. Workers Comp. Panel 2002).

Tennessee Code Annotated § 36-3-301(i) provides that “[a]ll elected officials and former officials, who are authorized to solemnize the rite of matrimony pursuant to the provisions of subsection (a), may solemnize the rite of matrimony in any county of this state.” Thus, under the applicable statutory provisions, current and former elected officials meeting the requirements of § 36-3-301(a) “may solemnize the rite of matrimony *in any county of this state*.” Tenn. Code Ann. § 36-3-301(i) (emphasis added).

The primary goal in interpreting the statutory provisions relevant to this process is “to ascertain and carry out the legislature’s intent without unduly restricting or expanding a statute’s coverage beyond its intended scope.” *Premium Fin. Corp. of Am. v. Crump Ins. Servs. of Memphis, Inc.*, 978 S.W.2d 91, 93 (Tenn. 1998). “When the language of a statute is unambiguous, legislative

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<sup>1</sup> The list of persons who may solemnize a marriage also includes “ministers, preachers, pastors, priests, rabbis and other spiritual leaders of every religious belief.” Tenn. Code Ann. § 36-3-301(a)(1).

intent is to be ascertained from the plain and ordinary meaning of the statutory language used.” *Gragg v. Gragg*, 12 S.W.3d 412, 415 (Tenn. 2000).

When the legislature includes some terms but excludes others, the “familiar canon of statutory interpretation . . . *expressio unius est exclusio alterius* (‘to express one thing is to exclude others’)” leads to the inference that the others have been purposefully excluded. *Overstreet v. TRW Commercial Steering Div.*, 256 S.W.3d 626, 633 (Tenn. 2008), *abrogated on other grounds* by 2009 Tenn. Pub. Acts., ch. 486, § 1. Here, the legislature has plainly and unambiguously authorized current and former elected officials to solemnize marriages in all 95 counties of Tennessee but has excluded mention of any other state or county outside Tennessee. By expressing one thing—the 95 counties of Tennessee—the legislature has excluded others—namely other states and counties in other states.

Thus, under the applicable statutory provisions, when executing a license issued by a Tennessee county clerk, a current or former elected official may solemnize the rite of matrimony only in Tennessee. There is no Tennessee statutory authority supporting solemnization of a wedding ceremony by these officials outside Tennessee.

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