

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. There is no gender requirement for the 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 as attached).
- The attorney-in-fact **and** the party (whomever is not stationed overseas serving in a conflict of 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 (831) 755-5450 for office hours and fees.
- The **original** (faxed copies are not acceptable) 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 Party	=	John Alan Smith
Name of Attorney in Fact (AIF)	=	Joseph Brown

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

- Marriage licenses should not be altered to contain the statement "Power of Attorney" or any other statement at the top of 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 party (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 party (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.
- The process cannot be used if both parties are stationed overseas serving in a conflict or a 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 (831) 755-5450.

Copy of Civil Code 1183 & Probate Code 4122

Civil Code section 1183: The proof or acknowledgement 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 of 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 (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 requirement 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

STATE FILE NUMBER _____

LOCAL REGISTRATION NUMBER _____

of

POWER OF ATTORNEY: CALIFORNIA MARRIAGE LICENSE
[California Family Code 420(b)]

I _____, declare under penalty of perjury that I am a member of the Armed
(Printed true legal name)
Forces of the United States, who is stationed overseas _____ and serving in a
(Indicate where you are serving)

conflict or a war and am unable to personally appear in the County Clerk's Office to apply for and obtain a marriage license or participate in the marriage ceremony. Therefore pursuant to Family Code 420(b), I hereby give Power of Attorney to

_____ to act on my behalf for the sole purpose of applying for and
(Printed Name)

obtaining a marriage license and participating in the solemnization of the marriage. I further declare that the true legal names of the parties to be married are as follows:

(Printed true legal name of Party A)

(Date of birth MM/DD/CCYY)

(Printed true legal name of Party B)

(Date of birth MM/DD/CCYY)

(Date signed)

(Signature of person granting power of attorney)

Witnessed this _____ day of _____, 20_____

(Signature)

(Printed Name and Rank)

(Signature)

(Printed Name and Rank)

CERTIFICATE OF ACKNOWLEDGMENT

State of _____)

) ss

County of _____)

On _____, before me

_____, personally appeared

_____, who proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.
(NOTARY SEAL)

NOTARY SIGNATURE

The attorney-in-fact must personally appear at the County Clerk's office with the party who is not stationed overseas, and present the original power of attorney duly signed by the party stationed overseas and acknowledged by a notary or witnessed by two officers of the United States Armed Forces.

Original Power of Attorney shall be a part of the marriage certificate upon registration.