

MARRIAGE - application for marriage license - premarital test - issuance of marriage license. Section 48-134, R.C.M. 1947.

HELD: A person may make application for marriage license without having a premarital blood test, but a marriage license cannot be issued until the applicant proves that he has had such an examination.

December 10, 1969

Miss Beth Burks
Clerk of the District Court
Powell County Courthouse
Deer Lodge, Montana 59722

Dear Miss Burks:

In your letter dated November 19, 1969, you asked for my opinion on the following question:

Do all persons who make application for a marriage license have to present to the clerk of the district court a certificate proving that they have had premarital blood tests, or do they just have to present these certificates prior to the time the marriage license is issued?

Section 48-118.1, Revised Codes of Montana, 1947, states in part:

“An application for a marriage license shall be filed at least five (5) days before a license shall be issued”

Nothing in this statute requires the applicants to present to the clerk of court, at this time, a certificate showing that they have already had a premarital blood test.

Section 48-134, R.C.M. 1947, requires that the certificate be filed with the clerk of court before a marriage license can be issued:

“Before any person, who is or may hereafter be authorized by law to issue marriage licenses, shall issue a marriage license, each applicant therefor shall exhibit to him a birth certificate or other satisfactory evidence of age . . . and shall also file with him a certificate from a duly qualified physician, licensed to practice medicine and surgery in any state or United States territory, or any other person authorized by laws of Montana to make such a certificate, which certificate shall state that the applicant has been given such an examination, including a standard serological test. . . .”

This statute requires that the certificate be filed with the clerk of the district court before a marriage license can be granted but does not preclude that applicant from applying for a marriage license before he has taken his premarital blood examination.

Therefore, it is my opinion that a person may apply for a marriage license without having a premarital blood test; but, before a marriage license can be issued to the applicant, he must file the certificate, showing that he has had such an examination, with the clerk of the district court.

Very truly yours,

ROBERT L. WOODAHL
Attorney General