

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered December 17, 2007.

(Deleted material is struck through and new material is underscored.)

Effective January 1, 2008, Supreme Court Rule 40 is amended, as follows.

Amended Rule 40

Rule 40. Marriage Divisions

(a) Creation. The chief judge of any judicial circuit may, by administrative order, establish a marriage division in any county in the circuit and specify the times and places at which those judges willing to perform marriages will normally be available to do so. A marriage fund may be established on a circuitwide basis rather than a county-by-county basis when the chief judge, along with the majority of circuit judges, determines that the circuit's judicial needs are best served by a circuitwide fund.

(b) Clerk–Fee. The chief judge may provide that the clerk of the circuit court or someone designated by the clerk shall attend each regular session of each marriage division to assist the judge assigned thereto. The chief judge may set a fee to be collected by the clerk in an amount not to exceed \$10 for each marriage performed. No additional fee or gratuity will be solicited or accepted.

(c) Trust Account. The fees received shall be deposited in a federally insured or fully collateralized bank account in the name of the “Marriage Fund of the Circuit Court of _____ County” or the “Marriage Fund of the _____ Circuit Court.” The trustees of the account shall be three in number, consisting of the chief judge, the administrative secretary to the chief judge, and a resident circuit judge of the county. If there is no administrative secretary to the chief judge, or if there is no resident circuit judge of the county, the chief judge shall designate one or two fellow circuit judges as his co-trustees. Money in a marriage fund may be spent in

furtherance of the administration of justice for the following items:

- bank charges;
- business meal costs when an agenda is prepared for the meeting;
- courtroom and judicial office improvements;
- electronic legal research services;
- equipment—purchase, repair, and service;
- judicial robes—purchase, repair, and cleaning;
- jury room supplies and equipment;
- legal publications;
- membership dues for legal and judicial associations;
- name plates for judges;
- office supplies;
- pictures, plaques, and frames for the courthouse;
- public education/awareness program materials;
- training courses approved by the judicial education committee;
- training and professional education programs for nonjudicial employees of the judicial branch; and
- travel for judicial business, not to exceed reimbursement levels consistent with the Supreme Court's travel reimbursement guidelines for judicial and nonjudicial members of the judicial branch.

Payment of a reasonable per diem fee to the clerk, or person designated by the clerk, who attends the marriage division on a day other than a regular working day may be made from the fund.

(d) Reporting and Auditing Requirements.

(1) Funds with Balances Under \$50,000 at the end of the State Fiscal Year. For marriage funds that reflect a balance under \$50,000 at the end of each State Fiscal Year (June 30), the chief judge of the circuit shall file, quarterly in the next fiscal year, reports with the Administrative Director of the Illinois Courts. The reports shall be filed not later than the fifteenth of each October, January, April and July. The report shall contain (i) the name of the marriage fund; (ii) the quarter end date; (iii) the balance on hand at the beginning of the quarter; (iv) the total income, including a detailed list of any income other than marriage fees for the quarter; (v) the total expenses for the quarter with a detailed list including the name of the vendor paid, description of the goods or services purchased, and the amount of each expense, and (vi) such other information as deemed necessary by the Administrative Director. The report shall be in a format prescribed by the Administrative Office. These reports shall be prepared by the administrative secretary or the resident judge and approved by the chief circuit judge.

(2) Funds with Balances of \$50,000 and over at the end of the State Fiscal Year. On an annual basis, and not later than September 30, the chief judge of the circuit shall file with the Administrative Director of the Illinois Courts a professional, independent audit conducted by an accredited audit firm for each marriage fund in his or her circuit reflecting a balance of \$50,000 and over at the end of the prior State fiscal year. The content of the annual audit shall be consistent with the reporting requirements contained in paragraphs (d)(1)(i) through (d)(1)(vi) of this rule.

(e) Excess Funds to County Treasurer. The trustees for all marriage funds shall pay into the county general fund or other judicial-related county funds such amounts as in their judgment may be appropriate.

Effective April 1, 1974; amended January 7, 2002, effective March 1, 2002; amended October 29, 2004, effective January 1, 2005; amended May 24, 2006, effective immediately; amended December 6, 2006, effective January 1, 2007; amended December 17, 2007, effective January 1, 2008.