

A bill for an act

relating to civil law; providing for civil union relationships; substituting civil union contracts for marriage for purposes of Minnesota law; amending Minnesota Statutes 2008, sections 363A.27; 517.01; 517.02; 517.03; 517.07; 517.08; 517.10; 517.101; 517.20; proposing coding for new law in Minnesota Statutes, chapter 517; repealing Minnesota Statutes 2008, sections 517.04; 517.041; 517.05; 517.06; 517.09; 517.13; 517.14; 517.15; 517.16; 517.18.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 363A.27, is amended to read:

**363A.27 CONSTRUCTION OF LAW.**

Nothing in this chapter shall be construed to:

(1) mean the state of Minnesota condones homosexuality or bisexuality or any equivalent lifestyle;

(2) authorize or permit the promotion of homosexuality or bisexuality in education institutions or require the teaching in education institutions of homosexuality or bisexuality as an acceptable lifestyle; or

(3) authorize or permit the use of numerical goals or quotas, or other types of affirmative action programs, with respect to homosexuality or bisexuality in the administration or enforcement of the provisions of this chapter; or

~~(4) authorize the recognition of or the right of marriage between persons of the same sex.~~

Sec. 2. Minnesota Statutes 2008, section 517.01, is amended to read:

**517.01 ~~MARRIAGE~~ A CIVIL UNION CONTRACT.**

~~Marriage~~ A civil union, so far as its validity in law is concerned, is a civil contract between ~~a man and a woman~~ two parties, recognized by the state of Minnesota, to which the consent of the parties, capable in law of contracting, is essential. ~~Lawful marriage may be contracted only between persons of the opposite sex and only~~ A civil union contract is only valid when a license has been obtained as provided by law and when the ~~marriage~~ civil union is contracted in the presence of two witnesses ~~and solemnized by one authorized, or whom one or both of the parties in good faith believe to be authorized, so to do.~~ ~~Marriages subsequent to April 26, 1941, not so contracted shall be null and void.~~

Sec. 3. Minnesota Statutes 2008, section 517.02, is amended to read:

**517.02 PERSONS CAPABLE OF CONTRACTING.**

Every person who has attained the full age of 18 years is capable in law of contracting ~~marriage~~ a civil union, if otherwise competent. A person of the full age of 16 years may, with the consent of the person's parents, guardian, or the court, as provided in section 517.08, receive a civil union license ~~to marry~~, when, after a careful inquiry into the facts and the surrounding circumstances, the person's application for a license is approved by the judge of the juvenile court of the county in which the person resides. If the judge of juvenile court of the county in which the person resides is absent from the county and has not by order assigned another judge or a retired judge to act in the judge's stead, then the court commissioner or any judge of district court of the county may approve the application for a license.

Sec. 4. Minnesota Statutes 2008, section 517.03, is amended to read:

**517.03 PROHIBITED MARRIAGES AND CIVIL UNION CONTRACTS.**

Subdivision 1. **General.** (a) The following marriages and civil union contracts are prohibited:

(1) a marriage or civil union contract entered into before the dissolution of an earlier marriage or civil union contract of one of the parties becomes final, as provided in section 518.145 or by the law of the jurisdiction where the dissolution was granted;

(2) a marriage or civil union contract between an ancestor and a descendant, or between a brother and a sister, whether the relationship is by the half or the whole blood or by adoption; and

(3) a marriage or civil union contract between an uncle and a niece, between an aunt and a nephew, or between first cousins, whether the relationship is by the half or the whole blood, except as to marriages permitted by the established customs of aboriginal cultures; ~~and.~~

~~(4) a marriage between persons of the same sex.~~

~~(b) A marriage entered into by persons of the same sex, either under common law or statute, that is recognized by another state or foreign jurisdiction is void in this state and contractual rights granted by virtue of the marriage or its termination are unenforceable in this state.~~

Subd. 2. **Developmentally disabled persons; consent by commissioner of human services.** Developmentally disabled persons committed to the guardianship of the commissioner of human services and developmentally disabled persons committed to the conservatorship of the commissioner of human services in which the terms of the conservatorship limit the right to marry or enter a civil union contract, may ~~marry~~ enter a civil union contract on receipt of written consent of the commissioner. The commissioner shall grant consent unless it appears from the commissioner's investigation that the ~~marriage~~ civil union contract is not in the best interest of the ward or conservatee and the public. The court administrator of the district court in the county where the application for a license is made by the ward or conservatee shall not issue the license unless the court administrator has received a signed copy of the consent of the commissioner of human services.

Sec. 5. Minnesota Statutes 2008, section 517.07, is amended to read:

**517.07 LICENSE.**

Before any persons are joined in ~~marriage~~ a civil union contract, a license shall be obtained from the local registrar of any county. The ~~marriage~~ civil union contract need not ~~take place~~ be formally entered in the county where the license is obtained.

Sec. 6. Minnesota Statutes 2008, section 517.08, is amended to read:

**517.08 APPLICATION FOR LICENSE.**

Subd. 1a. **Form.** Application for a ~~marriage~~ civil union contract license shall be made upon a form provided for the purpose and shall contain the following information:

(1) the full names of the parties and the sex of each party;

(2) their post office addresses and county and state of residence;

(3) their full ages;

(4) if either party has previously been married, the party's married name, and the date, place and court in which the marriage was dissolved or annulled or the date and place of death of the former spouse;

(5) if either party has previously been a party to a civil union contract, the date of the civil union contract, and the place and court in which the civil union contract was dissolved;

~~(5)~~ (6) if either party is a minor, the name and address of the minor's parents or guardian;

~~(6)~~ (7) whether the parties are related to each other, and, if so, their relationship;

~~(7)~~ (8) the name and date of birth of any child of which both parties are parents, born before the making of the application, unless their parental rights and the parent and child relationship with respect to the child have been terminated;

~~(8)~~ (9) address of the ~~bride and groom parties~~ after the ~~marriage~~ civil union contract is entered to which the court administrator shall send a certified copy of the ~~marriage certificate~~ civil union contract;

~~(9)~~ (10) the full names the parties will have after ~~marriage~~ the civil union contract is entered and the parties' Social Security numbers. The Social Security numbers must be collected for the application but must not appear on the ~~marriage license~~ civil union contract;

~~(10)~~ (11) if one or both of the individual parties ~~to the marriage license~~ has a felony conviction under Minnesota law or the law of another state or federal jurisdiction, the parties shall provide to the county proof of service upon the prosecuting authority and, if applicable, the attorney general, as required by section 259.13; and

~~(11)~~ (12) notice that a party who has a felony conviction under Minnesota law or the law of another state or federal jurisdiction may not use a different surname after marriage except as authorized by section 259.13, and that doing so is a gross misdemeanor.

Subd. 1b. **Term of license; fee; ~~premarital education~~.** (a) The local registrar shall examine upon oath the party applying for a license relative to the legality of the contemplated ~~marriage~~ civil union contract. If at the expiration of a five-day period, on being satisfied that there is no legal impediment to it, including the restriction contained in section 259.13, the local registrar shall issue the license, containing the full names of the parties before and after ~~marriage~~ the civil union contract is entered, and county and state of residence, with the county seal attached, and make a record of the date of issuance. The license shall be valid for a period of six months. In case of emergency or extraordinary circumstances, a judge of the district court of the county in which the application is made, may authorize the license to be issued at any time before the expiration of the five days. Except as provided in paragraph (b), the local registrar shall collect from the applicant a fee of \$110 for administering the oath, issuing, recording, and filing all papers required, and preparing and transmitting to the state registrar of vital statistics the reports

of ~~marriage~~ a civil union contract required by this section. If the license should not be used within the period of six months due to illness or other extenuating circumstances, it may be surrendered to the local registrar for cancellation, and in that case a new license shall issue upon request of the parties of the original license without fee. A local registrar who knowingly issues or signs a ~~marriage~~ license in any manner other than as provided in this section shall pay to the parties aggrieved an amount not to exceed \$1,000.

(b) The ~~marriage~~ civil union contract license fee for parties who have completed at least 12 hours of premarital education is \$40. In order to qualify for the reduced license fee, the parties must submit at the time of applying for the ~~marriage~~ license a signed and dated statement from the person who provided the premarital education confirming that it was received. The premarital education must be provided by a licensed or ordained minister or the minister's designee, ~~a person authorized to solemnize marriages under section 517.18~~, or a person authorized to practice marriage and family therapy under section 148B.33. The education must include the use of a premarital inventory and the teaching of communication and conflict management skills.

(c) The statement from the person who provided the premarital education under paragraph (b) must be in the following form:

"I, (name of educator), confirm that (names of both parties) received at least 12 hours of premarital education that included the use of a premarital inventory and the teaching of communication and conflict management skills. I am a licensed or ordained minister, ~~a person authorized to solemnize marriages under Minnesota Statutes, section 517.18~~, or a person licensed to practice marriage and family therapy under Minnesota Statutes, section 148B.33."

The names of the parties in the educator's statement must be identical to the legal names of the parties as they appear in the ~~marriage~~ civil union contract license application. Notwithstanding section 138.17, the educator's statement must be retained for seven years, after which time it may be destroyed.

(d) If section 259.13 applies to the request for a ~~marriage~~ civil union contract license, the local registrar shall grant the ~~marriage~~ license without the requested name change. Alternatively, the local registrar may delay the granting of the ~~marriage~~ civil union contract license until the party with the conviction:

(1) certifies under oath that 30 days have passed since service of the notice for a name change upon the prosecuting authority and, if applicable, the attorney general and no objection has been filed under section 259.13; or

(2) provides a certified copy of the court order granting it. The parties seeking the ~~marriage~~ license shall have the right to choose to have the license granted without the name change or to delay its granting pending further action on the name change request.

Subd. 1c. **Disposition of license fee.** (a) Of the ~~marriage~~ civil union contract license fee collected pursuant to subdivision 1b, paragraph (a), \$25 must be retained by the county. The local registrar must pay \$85 to the commissioner of finance to be deposited as follows:

(1) \$50 in the general fund;

(2) \$3 in the state government special revenue fund to be appropriated to the commissioner of public safety for parenting time centers under section 119A.37;

(3) \$2 in the special revenue fund to be appropriated to the commissioner of health for developing and implementing the MN ENABL program under section 145.9255;

(4) \$25 in the special revenue fund is appropriated to the commissioner of employment and economic development for the displaced homemaker program under section 116L.96; and

(5) \$5 in the special revenue fund is appropriated to the commissioner of human services for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under section 256.742.

(b) Of the \$40 fee under subdivision 1b, paragraph (b), \$25 must be retained by the county. The local registrar must pay \$15 to the commissioner of finance to be deposited as follows:

(1) \$5 as provided in paragraph (a), clauses (2) and (3); and

(2) \$10 in the special revenue fund is appropriated to the commissioner of employment and economic development for the displaced homemaker program under section 116L.96.

(c) The increase in the ~~marriage~~ license fee under paragraph (a) provided for in Laws 2004, chapter 273, and disbursement of the increase in that fee to the special fund for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under paragraph (a), clause (5), is contingent upon the receipt of federal funding under United States Code, title 42, section 1315, for purposes of the initiative.

Subd. 4. **Report.** The local registrar of each county shall annually report to the Department of Health the number of ~~marriage~~ licenses issued in the county for which the fee in subdivision 1b, paragraph (a), was paid and the number for which the fee in subdivision 1b, paragraph (b), was paid.

Sec. 7. Minnesota Statutes 2008, section 517.10, is amended to read:

**517.10 CERTIFICATE; WITNESSES.**

The ~~person solemnizing a marriage~~ local registrar of each county shall prepare and sign three certificates ~~thereof~~ of lawful civil union contract. Each certificate shall contain the full names before and after ~~marriage~~ the civil union contract and county and state of residences of the parties and the date and place of the ~~marriage~~ civil union contract. Each certificate shall also contain the signatures of at least two of the witnesses present at the ~~marriage~~ time the civil union contract was signed, who shall be at least 16 years of age. The ~~person solemnizing the marriage~~ registrar shall give each of the parties one such certificate, and shall immediately make a record of such ~~marriage~~ civil union contract, and file one such certificate ~~with the local registrar of the district court of the county in which the license was issued~~ within five days after the ~~ceremony~~ civil union contract was signed. The local registrar shall record such certificate in a book kept for that purpose.

Sec. 8. Minnesota Statutes 2008, section 517.101, is amended to read:

**517.101 CERTIFIED COPIES OF ~~MARRIAGE~~ CERTIFICATE.**

Within ten days of receipt of the certificate and after recording the certificate the local registrar shall prepare a certified copy of the certificate to be mailed to the ~~married~~ parties. ~~The person solemnizing the marriage shall indicate at the time of filing the certificate with the local registrar that the person wishes to receive a copy.~~

Sec. 9. Minnesota Statutes 2008, section 517.20, is amended to read:

**517.20 APPLICATION.**

~~Except as provided in section 517.03, subdivision 1, paragraph (b),~~ All marriages and civil unions contracted within this state ~~prior to March 1, 1979~~ or outside this state that were valid at the time of the contract or subsequently validated by the laws of the place in which they were contracted or by the domicile of the parties are valid in this state.

**Sec. 10. [517.22] MARRIAGE BY RELIGIOUS INSTITUTION NOT PROHIBITED.**

(a) Nothing in this chapter prohibits a religious institution or cultural group from performing a ceremony of marriage, according to any applicable rules or customs of the institution or group. A licensed or ordained minister may be a witness to the signing of a civil union contract as required by section 517.10.

(b) Notwithstanding a marriage ceremony performed by a religious institution or cultural group, the parties to that ceremony are not entitled to the rights, benefits, or privileges of Minnesota law resulting from a civil union contract until such civil union contract is lawfully signed and entered as provided in this chapter.

8.1        Sec. 11. **[517.23] MEANING OF CIVIL UNION CONTRACT.**

8.2        Wherever the term "marriage," "marital," "marry," or "married" is used in Minnesota  
8.3 statute in reference to the rights, obligations, or privileges of a couple under law, the term  
8.4 shall include a civil union contract, or parties to a civil union contract, as established by  
8.5 this chapter. A term subject to this definition must also be interpreted in reference to the  
8.6 context in which it appears, but may not be interpreted to limit or exclude any parties who  
8.7 have entered a valid civil union contract under this chapter.

8.8        Sec. 12. **REPEALER.**

8.9        Minnesota Statutes 2008, sections 517.04; 517.041; 517.05; 517.06; 517.09; 517.13;  
8.10 517.14; 517.15; 517.16; and 517.18, are repealed.

8.11       Sec. 13. **EFFECTIVE DATE.**

8.12       Sections 1 to 11 are effective August 1, 2009, and apply to civil union contracts  
8.13 applied for on or after that date. After August 1, 2009, the local registrar of each county  
8.14 is prohibited from accepting or processing an application for marriage license that is  
8.15 inconsistent with the requirements of this act.



**517.04 SOLEMNIZATION.**

Marriages may be solemnized throughout the state by a judge of a court of record, a retired judge of a court of record, a court administrator, a retired court administrator with the approval of the chief judge of the judicial district, a former court commissioner who is employed by the court system or is acting pursuant to an order of the chief judge of the commissioner's judicial district, the residential school administrators of the Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind, a licensed or ordained minister of any religious denomination, or by any mode recognized in section 517.18.

**517.041 POWER TO APPOINT COURT COMMISSIONER; DUTY.**

The Third Judicial District may appoint as court commissioner for Fillmore and Olmsted Counties respectively a person who was formerly employed by those counties as a court commissioner.

The sole duty of an appointed court commissioner is to solemnize marriages.

**517.05 CREDENTIALS OF MINISTER.**

Ministers of any religious denomination, before they are authorized to solemnize a marriage, shall file a copy of their credentials of license or ordination with the court administrator of the district court of a county in this state, who shall record the same and give a certificate thereof. The place where the credentials are recorded shall be endorsed upon and recorded with each certificate of marriage granted by a minister.

**517.06 PARTIES EXAMINED.**

Every person authorized by law to perform the marriage ceremony, before solemnizing a marriage, may examine the parties on oath, which oath the person is authorized to administer, as to the legality of the intended marriage, and no person shall solemnize a marriage unless satisfied that there is no legal impediment to it.

**517.09 SOLEMNIZATION.**

No particular form is required to solemnize a marriage, except: the parties shall declare in the presence of a person authorized to solemnize marriages and two attending witnesses that they take each other as husband and wife; or the marriage shall be solemnized in a manner provided by section 517.18.

**517.13 PENALTY FOR FAILURE TO DELIVER AND FILE CERTIFICATE.**

Every person solemnizing a marriage who neglects to deliver to the local registrar a certificate within the time set forth in section 517.10 shall forfeit a sum not exceeding \$100, and every local registrar who neglects to record a certificate shall forfeit a like sum.

**517.14 ILLEGAL MARRIAGE; FALSE CERTIFICATE; PENALTY.**

A person authorized by law to solemnize marriages who knowingly solemnizes a marriage contrary to the provisions of this chapter, or knowing of any legal impediment to the proposed marriage, or who willfully makes a false certificate of any marriage or pretended marriage is guilty of a misdemeanor.

**517.15 UNAUTHORIZED PERSON PERFORMING CEREMONY.**

A person who knowingly undertakes to solemnize a marriage, without lawful authority to do so, is guilty of a misdemeanor.

**517.16 IMMATERIAL IRREGULARITY OF OFFICIATING PERSON DOES NOT VOID.**

A marriage solemnized before a person professing to be lawfully authorized to do so shall not be adjudged to be void, nor shall its validity be in any way affected, on account of a want of jurisdiction or authority in the supposed officer or person, if the marriage is consummated

## APPENDIX

Repealed Minnesota Statutes: 09-2322

with the full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

### **517.18 MARRIAGE SOLEMNIZATION.**

Subdivision 1. **Friends or Quakers.** All marriages solemnized among the people called Friends or Quakers, in the form heretofore practiced and in use in their meetings, shall be valid and not affected by any of the foregoing provisions. The clerk of the meeting in which such marriage is solemnized, within one month after any such marriage, shall deliver a certificate of the same to the local registrar of the county where the marriage took place, under penalty of not more than \$100. Such certificate shall be filed and recorded by the court administrator under a like penalty. If such marriage does not take place in such meeting, such certificate shall be signed by the parties and at least six witnesses present, and shall be filed and recorded as above provided under a like penalty.

Subd. 2. **Baha'i.** Marriages may be solemnized among members of the Baha'i faith by the chair of an incorporated local Spiritual Assembly of the Baha'is, according to the form and usage of such society.

Subd. 3. **Hindus; Muslims.** Marriages may be solemnized among Hindus or Muslims by the person chosen by a local Hindu or Muslim association, according to the form and usage of their respective religions.

Subd. 4. **American Indians.** Marriages may be solemnized among American Indians according to the form and usage of their religion by an Indian Mide' or holy person chosen by the parties to the marriage.

Subd. 5. **Construction of section.** Nothing in subdivisions 2 to 4 shall be construed to alter the requirements of section 517.01, 517.09 or 517.10.