

Domestic Relations

CHAPTER 517

MARRIAGE

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517.01 MARRIAGE A CIVIL CONTRACT. Marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of the parties, capable in law of contracting, is essential. Lawful marriage hereafter may be contracted only when a license has been obtained therefor as provided by law and when such marriage is contracted in the presence of two witnesses and solemnized by one authorized, or whom 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.

[*RL s 3552; 1941 c 459*] (8562)

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

[*RL s 3553; 1927 c 166; 1949 c 374 s 1; 1963 c 795 s 1; 1967 c 506 s 1; 1973 c 725 s 72*] (8563)

517.03 MARRIAGES PROHIBITED. No marriage shall be contracted while either of the parties has a husband or wife living; nor within six months after either has been divorced from a former spouse; excepting re-intermarriage between such parties; nor within six months after either was a party to a marriage which has been adjudged a nullity, excepting intermarriage between such parties; nor between parties who are nearer than second cousins, whether of the half or whole blood, computed by the rules of the civil law; nor between persons one of whom is a male person under 18 years of age or one of whom is a female person under the age of 16 years; provided, however, that mentally deficient persons committed to the guardianship of the commissioner of public welfare and mentally deficient persons committed to the conservatorship of the commissioner of public welfare in which the terms of the conservatorship limit the right to marry, may marry on receipt of written consent of the commissioner. The commissioner shall grant such consent unless it appears from his investigation that such marriage is not in the best interest of the ward or conservatee and the public. The clerk of the district court in the county where the application for a license is made by such ward or conservatee shall not issue the license unless and until he has received a signed copy of the consent of the commissioner of public welfare.

[*RL s 3554; 1911 c 222 s 1; 1937 c 407 s 1; 1945 c 12 s 1; 1947 c 623 s 1; 1959 c 638 s 1; 1963 c 795 s 2; 1974 c 406 s 52; 1975 c 208 s 34*] (8564)

517.04 SOLEMNIZATION. Marriages may be solemnized by any justice of the peace in the county in which he is elected, and throughout the state by any judge of a court of record, the superintendent of the department for the deaf and dumb, in the

state school for the deaf and blind, or any licensed or ordained minister of the gospel in regular communion with a religious society.

[*RL s 3555*] (8565)

517.05 CREDENTIALS OF MINISTER. Ministers of the gospel, before they are authorized to perform the marriage rite, shall file a copy of their credentials of license or ordination with the clerk of the district court of some county in this state, who shall record the same and give a certificate thereof; and the place where such credentials are recorded shall be endorsed upon and recorded with each certificate of marriage granted by a minister.

[*RL s 3556*] (8566)

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

[*RL s 3557*] (8567)

517.07 LICENSE. Before any persons shall be joined in marriage, a license shall be obtained from the clerk of the district court of the county in which the woman resides, or, if not a resident of this state, then from the clerk of the district court of any county and the marriage need not take place in the county where the license is obtained.

[*RL s 3558; 1957 c 410 s 1*] (8568)

517.071 NO REQUIREMENT OF CHANGE OF NAME. If in completing the report of marriage the woman fails to designate a name after marriage in the space provided, it shall be presumed that she has adopted the surname of the groom.

[*1975 c 52 s 4*]

517.08 APPLICATION FOR LICENSE. Subdivision 1. Application for a marriage license shall be made at least five days before a license shall be issued. Such application shall be made upon a form provided for the purpose and shall contain the full names of the parties, their post office addresses and county and state of residence, and their full ages. The clerk shall examine upon oath the party applying for license relative to the legality of such contemplated marriage and, if at the expiration of this five-day period, he is satisfied that there is no legal impediment thereto, he shall issue such license, containing the full names of the parties and county and state of residence, with the district court seal attached, and make a record of the date of issuance thereof, which license shall be valid for a period of six months. In case of emergency or extraordinary circumstances, the judge of the probate court, the court commissioner, or any 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. The clerk shall collect from the applicant a fee of \$10 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 required by this section. If illness or other extenuating circumstances, it may be surrendered to the clerk for cancellation, and in such case a new license shall issue upon request of the parties of the original license without fee therefor. Any clerk who shall knowingly issue or sign a marriage license in any other manner than in this section provided shall forfeit and pay for the use of the parties aggrieved not to exceed \$1,000.

Subd. 2. On or before the 11th day of each calendar month, the clerk of the district court shall prepare and transmit to the state registrar of vital statistics, on a form prescribed and furnished by the state registrar of vital statistics, a certified summary of the identifying information and statistical data concerning persons for whom certificates of marriage were filed in the office of the clerk of the district court during the previous month. The state registrar of vital statistics shall prepare and maintain a state-wide index of such identifying information and compile therefrom data for statistical purposes.

Subd. 3. The personal information necessary to complete the report of marriage shall be furnished by the applicant prior to the issuance of the license. The report shall contain only the following information:

(a) Personal information on bride and groom.

1. Name.
2. Residence.
3. Date and place of birth.
4. Race.
5. If previously married, how terminated.
6. Name after marriage.
7. Signature of applicant and date signed.

(b) Information concerning the marriage.

1. Date of marriage.
2. Place of marriage.
3. Civil or religious ceremony.

(c) Signature of clerk of court and date signed.

[*RL s 3559; 1931 c 401 s 1; 1939 c 243 s 1; 1949 c 374 s 1; 1951 c 700 s 1; 1955 c 762 s 1; 1957 c 886 s 1; 1963 c 795 s 3; 1969 c 1145 s 3; 1973 c 725 s 73; 1975 c 52 s 3*] (8569)

517.09 SOLEMNIZATION. In the solemnization of marriage no particular form shall be required, except that the parties shall declare in the presence of a person authorized by section 517.04 to solemnize marriages, and the attending witnesses that they take each other as husband and wife. In each case at least two witnesses shall be present besides the person performing the ceremony.

[*RL s 3560; 1945 c 409 s 1-3; 1951 c 255 s 1; 1951 c 700 s 2*] (8570)

517.10 CERTIFICATE; WITNESSES. The person solemnizing a marriage shall prepare under his hand three certificates thereof. Each certificate shall contain the full names and county and state of residences of the parties and the date and place of the marriage. Each certificate shall also contain the signatures of at least two of the witnesses present at the marriage who shall be at least 16 years of age. The person solemnizing the marriage shall give each of the parties one such certificate, and shall immediately make a record of such marriage, and file one such certificate with the clerk of the district court of the county in which the license was issued within five days after the ceremony. The clerk shall record such certificate in a book kept for that purpose.

[*RL s 3561; 1949 c 374 s 3; 1951 c 700 s 3*] (8571)

517.11 [Repealed, 1951 c 700 s 5]

517.12 [Repealed, 1951 c 700 s 5]

517.13 PENALTY FOR FAILURE TO DELIVER AND FILE CERTIFICATE. Every person solemnizing a marriage who shall neglect to make and deliver to the clerk a certificate thereof within the time above specified shall forfeit a sum not exceeding \$100, and every clerk who neglects to record such certificate shall forfeit a like sum.

[*RL s 3563*] (8574)

517.14 ILLEGAL MARRIAGE; FALSE CERTIFICATE; PENALTY. If any person authorized by law to join persons in marriage shall knowingly solemnize any marriage contrary to the provisions of this chapter, or wilfully make any false certificate of any marriage, or pretended marriage, he shall forfeit for every such offense a sum not exceeding \$500, or may be imprisoned not exceeding one year.

[*RL s 3564*] (8575)

517.15 UNAUTHORIZED PERSON PERFORMING CEREMONY. If any person undertakes to join others in marriage, knowing that he is not lawfully authorized to do so, or knowing of any legal impediment to the proposed marriage, he shall be guilty of a gross misdemeanor; and, upon conviction thereof, punished by imprisonment of not more than one year, or by a fine of not more than \$500, or by both such fine and imprisonment.

[*RL s 3565*] (8576)

517.16 IMMATERIAL IRREGULARITY OF OFFICIATING PERSON NOT TO VOID. No marriage solemnized before any person professing to be a judge, justice of the peace, or minister of the gospel shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed officer or person; provided, the marriage is consummated with the full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

[*RL s 3566*] (8577)

517.17 SOLEMNIZING UNLAWFUL MARRIAGES. Every minister or magistrate who shall solemnize a marriage when either party thereto is known to him to be under the age of legal consent, or to be an idiot or insane person, or a marriage to which, within his knowledge, a legal impediment exists, shall be guilty of a gross misdemeanor.

[*RL s 5165*] (10460)

517.18 MARRIAGE SOLEMNIZATION. Subdivision 1. 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 clerk of the district court of the county where the marriage took place, under penalty of not more than \$100. Such certificate shall be filed and recorded by the clerk 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. Marriages may be solemnized among members of the Baha'i faith by the chairman of an incorporated local Spiritual Assembly of the Baha'is, according to the form and usage of such society.

Subd. 3. 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. Marriages may be solemnized among Native Americans according to the form and usage of their religion by an Indian Mide' or holy man chosen by the parties to the marriage.

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

[*RL s 3567; 1947 c 66 s 1; 1967 c 247 s 1; 1976 c 11 s 1*] (8578)

517.19 ILLEGITIMATE CHILDREN. Illegitimate children shall become legitimized by the subsequent marriage of their parents to each other, and the issue of marriages declared null in law shall nevertheless be legitimate.

[*RL s 3568*] (8579)