

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 between a man and a woman, to which the consent of the parties, capable in law of contracting, is essential. Lawful marriage may be contracted only when a license has been obtained as provided by law and when the marriage 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.

History: *RL s 3552; 1941 c 459; 1977 c 441 s 1; 1978 c 772 s 1 (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 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 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 probate judge or a retired probate 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.

History: *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; 1981 c 58 s 1 (8563)*

517.03 PROHIBITED MARRIAGES.

The following marriages are prohibited:

(a) A marriage entered into before the dissolution of an earlier marriage 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;

(b) A marriage 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;

(c) A marriage 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; provided, however, that mentally deficient persons committed to the guardianship of the commissioner of public welfare and mentally deficient persons commit-

ted 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 consent unless it appears from his investigation that the 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 the ward or conservatee shall not issue the license unless he has received a signed copy of the consent of the commissioner of public welfare.

History: *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; 1978 c 772 s 2; 1979 c 259 s 1 (8564)*

517.04 SOLEMNIZATION.

Marriages may be solemnized throughout the state by a judge of a court of record, a clerk of court, a former court commissioner so long as he continues to be employed by the court system, the residential school administrators of the Minnesota school for the deaf and the Minnesota braille and sight-saving school, a licensed or ordained minister of any religious denomination, or by any mode recognized in section 517.18.

History: *RL s 3555; 1978 c 772 s 3; 1981 c 101 s 1 (8565)*

NOTE: Section 517.04 was also amended by Laws 1978, Chapter 496, Section 1, to read as follows:

"517.04 **Solemnization.**

Marriages may be solemnized by the clerk of court in the county of the court for which he is clerk, 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."

517.041 POWER TO APPOINT COURT COMMISSIONER; DUTY.

The county court of the combined county court district of Benton and Stearns may appoint as court commissioner a person who was formerly employed by that county court district as a court commissioner.

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

History: *1982 c 499 s 1*

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 clerk 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.

History: *RL s 3556; 1978 c 772 s 4 (8566)*

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 he is authorized to administer, as to the legality of the intended marriage, and no person shall solemnize a marriage unless he is satisfied that there is no legal impediment to it.

History: *RL s 3557; 1978 c 772 s 5 (8567)*

517.07 LICENSE.

Before any persons are joined in marriage, a license shall be obtained from the clerk of the district court of any county. The marriage need not take place in the county where the license is obtained.

History: *RL s 3558; 1957 c 410 s 1; 1978 c 772 s 6 (8568)*

517.071 [Repealed, 1978 c 699 s 17]

517.08 APPLICATION FOR LICENSE.

Subdivision 1a. Application for a marriage license shall be made upon a form provided for the purpose and shall contain the following information:

the full names of the parties,

their post office addresses and county and state of residence,

their full ages,

if either party has previously been married, his 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,

if either party is a minor, the name and address of the minor's parents or guardian,

whether the parties are related to each other, and, if so, their relationship,

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,

address of the bride and groom after the marriage to which the clerk shall send a certified copy of the marriage certificate,

and the full names the parties will have after marriage.

Subd. 1b. The clerk shall examine upon oath the party applying for a license relative to the legality of the contemplated marriage. If at the expiration of a five-day period, he is satisfied that there is no legal impediment to it, he shall issue the license, containing the full names of the parties before and after marriage, and county and state of residence, with the district court 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 county court or 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. The clerk shall collect from the applicant a fee of \$30 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 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 clerk for cancellation, and in that case a new license shall issue upon request of the parties of the original license without fee. A clerk 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.

Subd. 1c. **Disposition of license fee.** Of the marriage license fee collected pursuant to subdivision 1b, the clerk shall pay \$15 to the state treasurer to be deposited in the general fund for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 241.61 to 241.66 and for administering displaced homemaker programs established under section 4.40. The state treasurer shall identify and report to the commissioner of finance all amounts deposited in the general fund under this section.

Subd. 2. [Repealed, 1978 c 699 s 17]

Subd. 3. [Repealed, 1978 c 699 s 17]

History: *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; 1977 c 441 s 2,3; 1978 c 674 s 42; 1978 c 730 s 2; 1978 c 772 s 7; 1981 c 360 art 2 s 43,44 (8569)*

NOTE: Subdivision 3 was also amended by Laws 1978, Chapter 772, Section 8, to read as follows:

"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."

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.

History: *RL s 3560; 1945 c 409 s 1-3; 1951 c 255 s 1; 1951 c 700 s 2; 1978 c 772 s 9 (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 before and after marriage 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.

History: *RL s 3561; 1949 c 374 s 3; 1951 c 700 s 3; 1977 c 441 s 5 (8571)*

517.101 CERTIFIED COPIES OF MARRIAGE CERTIFICATE.

Within ten days of receipt of the certificate and after recording the certificate the clerk shall prepare two certified copies of the certificate of which he shall mail one to the married parties and the other to the person solemnizing the marriage. The person solemnizing the marriage may indicate at the time he files the certificate with the clerk that he does not wish to receive a certified copy.

History: *1977 c 441 s 4*

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

History: *RL s 3563; 1978 c 772 s 10 (8574)*

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 wilfully makes a false certificate of any marriage or pretended marriage is guilty of a misdemeanor.

History: *RL s 3564; 1978 c 772 s 11 (8575)*

517.15 UNAUTHORIZED PERSON PERFORMING CEREMONY.

A person who undertakes to solemnize a marriage, knowing that he is not lawfully authorized to do so, is guilty of a misdemeanor.

History: *RL s 3565; 1978 c 772 s 12 (8576)*

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

History: *RL s 3566; 1978 c 772 s 13 (8577)*

517.17 [Repealed, 1978 c 772 s 63]**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 American Indians according to the form and usage of their religion by an Indian Mide' or holy man chosen by the parties to the marriage.

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

History: *RL s 3567; 1947 c 66 s 1; 1967 c 247 s 1; 1976 c 11 s 1; 1979 c 243 s 12 (8578)*

517.19 [Repealed, 1980 c 589 s 38]

517.20 APPLICATION.

All marriages 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.

History: *1978 c 772 s 15*

517.21 AMERICAN FAMILY DAY.

The first Sunday in August is designated American family day.

History: *1981 c 111 s 1*