

Domestic Relations

CHAPTER 517

MARRIAGE

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517.0001 MS 2006 [Renumbered 15.001]

517.001 DEFINITION.

As used in this chapter, "local registrar" has the meaning given in section 144.212, subdivision 10.

History: 2004 c 273 s 2

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 between persons of the opposite sex and 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: (8562) RL s 3552; 1941 c 459; 1977 c 441 s 1; 1978 c 772 s 1; 1997 c 203 art 10 s 1

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 legal custodial 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 and consent for marriage of a minor form is approved by the

judge of the district court of the county in which the person resides. If the judge of the district 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.

The consent for marriage of a minor must be in the following form:

STATE OF MINNESOTA, COUNTY OF (insert county name)

I/We (insert legal custodial parent or guardian names) under oath or affirmation say:

That I/we are the legal custodial parent(s) or guardian of (insert name of minor), who was born at (insert place of birth) on (insert date of birth) who is presently the age of (insert age).

That the minor has not been previously married.

That I/we consent to the marriage of this minor to (insert name of the person minor intends to marry) who is of the age of (insert age).

That affidavit is being made for the purpose of requesting the judge's consent to allow this minor to marry and make this marriage legal.

Date:

.....
.....

(Signature of legal custodial parents or guardian)

Sworn to or affirmed and acknowledged before me on this day of

.....

NOTARY PUBLIC

STATE OF MINNESOTA, COUNTY OF (insert county name).

The undersigned is the judge of the district court where the minor resides and grants the request for the minor to marry.

..... (judge of district court)

..... (date).

History: (8563) 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; 1995 c 189 s 8; 1996 c 277 s 1; 2009 c 129 s 1

517.03 PROHIBITED MARRIAGES.

Subdivision 1. **General.** (a) The following marriages are prohibited:

(1) 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;

(2) 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;

(3) 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; 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, may marry on receipt of written consent of the commissioner. The commissioner shall grant consent unless it appears from the commissioner's investigation that the marriage is not in the best interest of the ward or conservatee and the public. The local registrar in the county where the application for a license is made by the ward or conservatee shall not issue the license unless the local registrar has received a signed copy of the consent of the commissioner of human services.

History: (8564) *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; 1984 c 654 art 5 s 58; 1985 c 21 s 67; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1997 c 203 art 10 s 2; 2005 c 56 s 1; 2009 c 129 s 2*

517.04 PERSONS AUTHORIZED TO PERFORM MARRIAGES.

Marriages may be solemnized throughout the state by an individual who has attained the age of 21 years and is 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.

History: (8565) *RL s 3555; 1978 c 772 s 3; 1981 c 101 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 377 s 10; 1987 c 384 art 1 s 55; 1991 c 85 s 1; 1995 c 129 s 1; 2009 c 129 s 3*

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.

History: *1982 c 499 s 1; 1983 c 136 s 1; 2006 c 260 art 5 s 46*

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 or, if their religious denomination does not issue credentials, authority from the minister's spiritual assembly, with the local registrar of a county in this state, who shall record the same and give a certificate of filing thereof. The place where the credentials are recorded shall be endorsed upon and recorded with each certificate of marriage granted by a minister.

History: (8566) *RL s 3556; 1978 c 772 s 4; 1Sp1986 c 3 art 1 s 82; 2009 c 129 s 4*

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. No person shall solemnize a marriage unless satisfied that there is no legal impediment to it, that a marriage license has been obtained, and that the individuals present are the persons named in the license.

History: (8567) *RL s 3557; 1978 c 772 s 5; 1986 c 444; 2009 c 129 s 5*

517.07 LICENSE.

Before any persons are joined in marriage in Minnesota, a license shall be obtained from the local registrar of any county within Minnesota. The marriage need not take place in the county where the license is obtained but must take place within the geographical borders of Minnesota.

History: (8568) *RL s 3558; 1957 c 410 s 1; 1978 c 772 s 6; 1Sp1986 c 3 art 1 s 82; 2004 c 273 s 3; 2009 c 129 s 6*

517.071 [Repealed, 1978 c 699 s 17]

517.08 APPLICATION FOR LICENSE.

Subdivision 1. [Renumbered subds 1a and 1b]

Subd. 1a. **Form.** Application for a marriage license shall be made by both of the parties 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 is a minor, the name and address of the minor's parents or guardian;
- (6) whether the parties are related to each other, and, if so, their relationship;
- (7) address of the bride and groom after the marriage to which the local registrar shall send a certified copy of the marriage certificate;
- (8) the full names the parties will have after marriage and the parties' Social Security numbers. The Social Security numbers must be collected for the application but must not appear on the marriage license. If a party listed on a marriage application does not have a Social Security number, the party must certify on the application, or a supplement to the application, that the party does not have a Social Security number;
- (9) if one or both of the 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
- (10) 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 name 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 parties applying for a license relative to the legality of the contemplated marriage. If one party is unable to appear in person, the party appearing may complete the absent applicant's information. The local registrar shall provide a copy of the marriage application to the party who is unable to appear, who must verify the accuracy of the party's information in a notarized statement. The marriage license must not be released until the verification statement has been received by the local registrar. 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, 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. Except as provided in paragraph (c), the local registrar shall collect from the applicant a fee of \$115 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 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) 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 expiration of the five-day period required under paragraph (a). A waiver of the five-day waiting period must be in the following form:

STATE OF MINNESOTA, COUNTY OF (insert county name)
 APPLICATION FOR WAIVER OF MARRIAGE LICENSE WAITING PERIOD:
 (legal names of the applicants)

Represent and state as follows:

That on (date of application) the applicants applied to the local registrar of the above-named county for a license to marry.

That it is necessary that the license be issued before the expiration of five days from the date of the application by reason of the following: (insert reason for requesting waiver of waiting period)

.....

WHEREAS, the applicants request that the judge waive the required five-day waiting period and the local registrar be authorized and directed to issue the marriage license immediately.

Date:

(Signatures of applicants)

Acknowledged before me on this day of

.....

NOTARY PUBLIC

COURT ORDER AND AUTHORIZATION:

STATE OF MINNESOTA, COUNTY OF (insert county name)

After reviewing the above application, I am satisfied that an emergency or extraordinary circumstance exists that justifies the issuance of the marriage license before the expiration of five days from the date of the application. IT IS HEREBY ORDERED that the local registrar is authorized and directed to issue the license forthwith.

.....

..... (judge of district court)

..... (date).

(c) The marriage 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 statement that is signed, dated, and notarized or marked with a church seal from the person who provided the premarital education on their letterhead 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.

(d) 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 license application. Notwithstanding section 138.17, the educator's statement must be retained for seven years, after which time it may be destroyed.

(e) If section 259.13 applies to the request for a marriage 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 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 license fee collected pursuant to subdivision 1b, paragraph (a), \$25 must be retained by the county. The local registrar must pay

\$90 to the commissioner of management and budget to be deposited as follows:

- (1) \$55 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, which is appropriated to the Board of Regents of the University of Minnesota for the Minnesota couples on the brink project under section 137.32.

(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 management and budget 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.

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

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

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.

History: (8569) *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; 1983 c 262 art 1 s 6; 1983 c 312 art 3 s 3,4; 1984 c 654 art 5 s 54; 1Sp1985 c 9 art 2 s 95,96; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1989 c 282 art 2 s 187; 1989 c 335 art 4 s 98; 1992 c 464 art 1 s 47; 1995 c 257 art 4 s 11,12; 1997 c 162 art 2 s 26; 1997 c 203 art 5 s 37; art 6 s 34; art 10 s 3; 1998 c 254 art 2 s 59; 2000 c 311 art 3 s 4,5; 2000 c 444 art 2 s 14; 2001 c 7 s 84; 1Sp2001 c 10 art 2 s 81,82; 2003 c 112 art 2 s 50; 2003 c 128 art 12 s 3,4; 2003 c 130 s 12; 2004 c 206 s 52; 2004 c 273 s 4-6; 1Sp2005 c 1 art 4 s 114,115; 2007 c 146 art 7 s 2; 2007 c 148 art 2 s 71,72; 2009 c 101 art 2 s 109; 2009 c 129 s 7,8; 2010 c 200 art 1 s 17; 2010 c 380 s 17; 1Sp2010 c 1 art 19 s 17,18*

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: (8570) *RL s 3560; 1945 c 409 s 1-3; 1951 c 255 s 1; 1951 c 700 s 2; 1978 c 772 s 9*

517.10 CERTIFICATE; WITNESSES.

The person solemnizing a marriage shall prepare and sign a certificate. The certificate shall contain the full names of the parties before and after marriage, the birth dates of the parties, and county and state of residences of the parties and the date and place of the marriage. The 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 immediately make a record of such marriage, and file such certificate with the local registrar of the county in which the license was issued within five days after the ceremony. The local registrar shall record such certificate in the county marriage records.

History: (8571) RL s 3561; 1949 c 374 s 3; 1951 c 700 s 3; 1977 c 441 s 5; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 2004 c 273 s 7; 2009 c 129 s 9

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.

History: 1977 c 441 s 4; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1991 c 281 s 2; 2009 c 129 s 10

517.11 [Repealed, 1951 c 700 s 5]

517.12 [Repealed, 1951 c 700 s 5]

517.13 PENALTY FOR FAILURE TO FILE CERTIFICATE.

Every person solemnizing a marriage who neglects to file a certificate with the local registrar 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.

History: (8574) RL s 3563; 1978 c 772 s 10; 1Sp1986 c 3 art 1 s 82; 2004 c 273 s 8; 2009 c 129 s 11

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.

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

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.

History: (8576) RL s 3565; 1978 c 772 s 12; 1986 c 444

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

517.17 [Repealed, 1978 c 772 s 63]

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.

History: (8578) *RL s 3567; 1947 c 66 s 1; 1967 c 247 s 1; 1976 c 11 s 1; 1979 c 243 s 12; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 2004 c 273 s 9*

517.19 [Repealed, 1980 c 589 s 38]

517.20 APPLICATION.

Except as provided in section 517.03, subdivision 1, paragraph (b), 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; 1997 c 203 art 10 s 4*

517.21 AMERICAN FAMILY DAY.

The first Sunday in August is designated American Family Day.

History: *1981 c 111 s 1*