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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1054

- 02/28/2013 Authored by Clark, Hausman, Simon, Allen, Melin and others
The bill was read for the first time and referred to the Committee on Civil Law
- 03/18/2013 Adoption of Report: Pass as Amended and Read Second Time
- 05/06/2013 By motion, re-referred to the Committee on Ways and Means
- 05/07/2013 Adoption of Report: Pass and Read Second Time
- 05/09/2013 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments
- 05/13/2013 Senate Special Order
Read Third Time
Passed by the Senate and returned to the House

1.1 A bill for an act
1.2 relating to marriage; providing for civil marriage between two persons; providing
1.3 for exemptions and protections based on religious association; amending
1.4 Minnesota Statutes 2012, sections 363A.26; 517.01; 517.03, subdivision 1;
1.5 517.08, subdivision 1a; 517.09; 518.07; proposing coding for new law in
1.6 Minnesota Statutes, chapter 517.

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

1.8 Section 1. Minnesota Statutes 2012, section 363A.26, is amended to read:

1.9 **363A.26 EXEMPTION BASED ON RELIGIOUS ASSOCIATION.**

1.10 Nothing in this chapter prohibits any religious association, religious corporation, or
1.11 religious society that is not organized for private profit, or any institution organized for
1.12 educational purposes that is operated, supervised, or controlled by a religious association,
1.13 religious corporation, or religious society that is not organized for private profit, from:

1.14 (1) limiting admission to or giving preference to persons of the same religion
1.15 or denomination; ~~or~~

1.16 (2) in matters relating to sexual orientation, taking any action with respect to
1.17 education, employment, housing and real property, or use of facilities. This clause shall
1.18 not apply to secular business activities engaged in by the religious association, religious
1.19 corporation, or religious society, the conduct of which is unrelated to the religious and
1.20 educational purposes for which it is organized; or

1.21 (3) taking any action with respect to the provision of goods, services, facilities, or
1.22 accommodations directly related to the solemnization or celebration of a civil marriage
1.23 that is in violation of its religious beliefs.

2.1 Sec. 2. Minnesota Statutes 2012, section 517.01, is amended to read:

2.2 **517.01 ~~MARRIAGE A CIVIL~~ CIVIL MARRIAGE CONTRACT.**

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

2.10 Sec. 3. Minnesota Statutes 2012, section 517.03, subdivision 1, is amended to read:

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

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

2.15 (2) a marriage between an ancestor and a descendant, or between ~~a brother and a~~
2.16 ~~sister~~ siblings, whether the relationship is by the half or the whole blood or by adoption; and

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

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

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

2.25 Sec. 4. Minnesota Statutes 2012, section 517.08, subdivision 1a, is amended to read:

2.26 Subd. 1a. **Form.** Application for a civil marriage license shall be made by both of the
2.27 parties upon a form provided for the purpose and shall contain the following information:

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

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

2.30 (3) their full ages;

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

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

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

3.2 (7) the address of the bride and groom parties after the marriage civil marriage is
 3.3 entered into to which the local registrar shall send a certified copy of the civil marriage
 3.4 certificate;

3.5 (8) the full names the parties will have after ~~marriage~~ the civil marriage is entered
 3.6 into and the parties' Social Security numbers. The Social Security numbers must be
 3.7 collected for the application but must not appear on the civil marriage license. If a party
 3.8 listed on a civil marriage application does not have a Social Security number, the party
 3.9 must certify on the application, or a supplement to the application, that the party does not
 3.10 have a Social Security number;

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

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

3.18 Sec. 5. Minnesota Statutes 2012, section 517.09, is amended to read:

3.19 **517.09 SOLEMNIZATION.**

3.20 Subdivision 1. **General.** No particular form is required to solemnize a civil
 3.21 marriage, except: the parties shall declare in the presence of a person authorized to
 3.22 solemnize civil marriages and two attending witnesses that ~~they take~~ each takes the other
 3.23 as husband and, wife, or spouse; or the civil marriage shall be solemnized in a manner
 3.24 provided by section 517.18.

3.25 Subd. 2. **Refusal to solemnize; protection of religious doctrine.** Each religious
 3.26 organization, association, or society has exclusive control over its own theological
 3.27 doctrine, policy, teachings, and beliefs regarding who may marry within that faith. A
 3.28 licensed or ordained member of the clergy or other person authorized by section 517.04 to
 3.29 solemnize a civil marriage is not subject to any fine, penalty, or civil liability for failing
 3.30 or refusing to solemnize a civil marriage for any reason.

3.31 Subd. 3. **Refusal to participate or support solemnization; protection of religious**
 3.32 belief. (a) Except for secular business activities engaged in by a religious association,
 3.33 religious corporation, or religious society, the conduct of which is unrelated to the
 3.34 religious and educational purposes for which it is organized, no religious association,
 3.35 religious corporation, or religious society shall be required to provide goods or services at

4.1 the solemnization or celebration of any civil marriage or be subject to civil liability or
4.2 any action by the state that penalizes, fines, or withholds any benefit to the religious
4.3 association, religious corporation, or religious society under the laws of this state,
4.4 including, but not limited to, laws regarding tax exempt status, for failing or refusing
4.5 to provide goods or services at the solemnization or celebration of any civil marriage,
4.6 if providing such goods or services would cause the religious association, religious
4.7 corporation, or religious society to violate their sincerely held religious beliefs.

4.8 (b) The exception in paragraph (a) applies to employees, agents, and volunteers
4.9 acting within the capacity of their employment or responsibilities with a religious
4.10 association, religious corporation, or religious society.

4.11 Sec. 6. **[517.201] RELATIONSHIP TO OTHER LAW; RULES OF**
4.12 **CONSTRUCTION.**

4.13 Subdivision 1. **Religious freedom; Human Rights Act.** (a) This chapter does not
4.14 alter or affect the protections or exemptions provided in chapter 363A for a religious
4.15 association, educational institution, business, labor organization, place of public
4.16 accommodation, employer, or other person.

4.17 (b) This chapter must not be construed to affect the manner in which a religious
4.18 association, religious corporation, or religious society that is not organized for private
4.19 profit, or an institution organized for educational purposes that is operated, supervised,
4.20 or controlled by a religious association, religious corporation, or religious society that is
4.21 not organized for private profit, provides adoption, foster care, or social services, if that
4.22 association, corporation, society, or educational institution does not receive public funds
4.23 for that specific program or purpose.

4.24 Subd. 2. **Rules of construction.** When necessary to implement the rights and
4.25 responsibilities of spouses or parents in a civil marriage between persons of the same sex
4.26 under the laws of this state, including those that establish parentage presumptions based
4.27 on a civil marriage, gender-specific terminology, such as "husband," "wife," "mother,"
4.28 "father," "widow," "widower," or similar terms, must be construed in a neutral manner to
4.29 refer to a person of either gender.

4.30 Sec. 7. **[517.23] MEANING OF CIVIL MARRIAGE.**

4.31 Wherever the term "marriage," "marital," "marry," or "married" is used in Minnesota
4.32 statute in reference to the rights, obligations, or privileges of a couple under law, the
4.33 term includes civil marriage, or individuals subject to civil marriage, as established by
4.34 this chapter. A term subject to this definition must also be interpreted in reference to the

5.1 context in which it appears, but may not be interpreted to limit or exclude any individual
5.2 who has entered into a valid civil marriage contract under this chapter.

5.3 Sec. 8. Minnesota Statutes 2012, section 518.07, is amended to read:

5.4 **518.07 RESIDENCE OF PARTIES.**

5.5 Subdivision 1. **General.** Except as provided in subdivision 2, no dissolution shall
5.6 be granted unless:

5.7 (1) one of the parties has resided in this state, or has been a member of the armed
5.8 services stationed in this state, for not less than 180 days immediately preceding the
5.9 commencement of the proceeding; or

5.10 (2) one of the parties has been a domiciliary of this state for not less than 180 days
5.11 immediately preceding commencement of the proceeding.

5.12 Subd. 2. **Action for dissolution by certain nonresidents.** (a) If neither party to the
5.13 civil marriage is a resident of this state at the commencement of the proceeding, a court of
5.14 this state has jurisdiction over the dissolution if:

5.15 (1) the civil marriage was performed in this state; and

5.16 (2) neither party to the civil marriage resides in a jurisdiction that will maintain an
5.17 action for dissolution by the parties because of the sex or sexual orientation of the spouses.

5.18 (b) There is a rebuttable presumption that a jurisdiction will not maintain an action
5.19 for dissolution if the jurisdiction does not recognize the civil marriage.

5.20 (c) An action for dissolution authorized by this subdivision must be adjudicated
5.21 in accordance with the laws of this state.

5.22 Sec. 9. **REVISOR'S INSTRUCTION.**

5.23 The revisor of statutes shall change the terms "marriage" and "marriages" to either
5.24 "civil marriage" or "civil marriages" wherever they appear in Minnesota Statutes, chapter
5.25 517, unless the context or any provision of this act indicates otherwise. The revisor shall
5.26 also make grammatical changes related to the changes in terms.