

A bill for an act

relating to civil union contracts; amending Minnesota Statutes 2010, 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 2010, 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 2010, 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) (2) 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 2010, 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~~ 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 2010, 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 legal custodial 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 and consent for ~~marriage~~ civil union 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~~ civil union 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 or entered into a civil union.

That I/we consent to the ~~marriage~~ civil union of this minor to
(insert name of the person minor intends to ~~marry~~ join in a civil union) 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~~ enter into a civil union contract and make this ~~marriage~~ civil
union contract 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~~ enter into a civil union contract.

..... (judge of district court)

..... (date).

Sec. 4. Minnesota Statutes 2010, 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

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~~marriage~~ civil union contract 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.

Sec. 5. Minnesota Statutes 2010, section 517.07, is amended to read:

517.07 LICENSE.

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

Sec. 6. Minnesota Statutes 2010, 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 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 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) address of the ~~bride and groom~~ parties after the ~~marriage~~ civil union contract is entered to which the local registrar shall send a certified copy of the ~~marriage certificate~~ civil union contract;

~~(8)~~ (9) 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~~ civil union contract license. If a party listed on a ~~marriage~~ civil union contract 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)~~ (10) 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

~~(10)~~ (11) 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 a civil union contract is entered 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 civil union contract. 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 civil union contract 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 civil union contract 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 the civil union contract, 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 the 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 civil union contract 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~~ CIVIL UNION CONTRACT
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~~ enter a civil union contract.

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~~ civil union contract 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~~ civil union contract 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)~~ (c) If section 259.13 applies to the request for a marriage civil union contract license, the local registrar shall grant the marriage civil union contract 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 civil union contract 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 \$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;

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(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. 4. **Report.** The local registrar of each county shall annually report to the Department of Health the number of marriage civil union contract 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 2010, 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 a certificate of a lawful civil union contract. The certificate shall contain the full names of the parties before and after ~~marriage~~ the civil union contract, the birth dates of the parties, and county and state of residences of the parties and the date and place of the ~~marriage~~ civil union contract. The certificate shall also contain the signatures of at least two of the witnesses present ~~at when the marriage~~ when the civil union contract was signed, who shall be at least 16 years of age. The ~~person solemnizing the marriage~~ registrar shall immediately make a record of such ~~marriage~~ civil union contract, and file such certificate ~~with the local registrar 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 the county marriage records.

Sec. 8. Minnesota Statutes 2010, section 517.101, is amended to read:

517.101 CERTIFIED COPIES OF ~~MARRIAGE~~ CERTIFICATE.

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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.

Sec. 9. Minnesota Statutes 2010, 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.

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

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

Sec. 12. REPEALER.

Minnesota Statutes 2010, sections 517.04; 517.041; 517.05; 517.06; 517.09; 517.13; 517.14; 517.15; 517.16; and 517.18, are repealed.

Sec. 13. EFFECTIVE DATE.

Sections 1 to 11 are effective August 1, 2012, and apply to civil union contracts applied for on or after that date. After August 1, 2012, the local registrar of each county

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- 10.1 is prohibited from accepting or processing an application for a marriage license that is
- 10.2 inconsistent with the requirements of this act.