

State of Minnesota

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

1.1 A bill for an act

1.2 relating to marriage; providing for marriage between two persons; providing for

1.3 exemptions based on religious association; amending Minnesota Statutes 2012,

1.4 sections 363A.26; 517.01; 517.03, subdivision 1; 517.08, subdivision 1a; 517.09;

1.5 518.07; proposing coding for new law in Minnesota Statutes, chapter 517.

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

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

1.8 **363A.26 EXEMPTION BASED ON RELIGIOUS ASSOCIATION.**

1.9 Nothing in this chapter prohibits any religious association, religious corporation, or

1.10 religious society that is not organized for private profit, or any institution organized for

1.11 educational purposes that is operated, supervised, or controlled by a religious association,

1.12 religious corporation, or religious society that is not organized for private profit, from:

1.13 (1) limiting admission to or giving preference to persons of the same religion

1.14 or denomination; ~~or~~

1.15 (2) in matters relating to sexual orientation, taking any action with respect to

1.16 education, employment, housing and real property, or use of facilities. This clause shall

1.17 not apply to secular business activities engaged in by the religious association, religious

1.18 corporation, or religious society, the conduct of which is unrelated to the religious and

1.19 educational purposes for which it is organized; or

1.20 (3) taking any action with respect to the provision of goods, services, facilities, or

1.21 accommodations directly related to the solemnization or celebration of a marriage that is

1.22 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 CONTRACT.**

2.3 Marriage, so far as its validity in law is concerned, is a civil contract between a
2.4 ~~man and a woman~~ two persons, to which the consent of the parties, capable in law of
2.5 contracting, is essential. Lawful marriage may be contracted ~~only between persons of the~~
2.6 ~~opposite sex and~~ only when a license has been obtained as provided by law and when the
2.7 marriage is contracted in the presence of two witnesses and solemnized by one authorized,
2.8 or whom one or both of the parties in good faith believe to be authorized, so to do.
2.9 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 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) address of the ~~bride and groom~~ parties after the marriage to which the local
3.3 registrar shall send a certified copy of the marriage certificate;

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

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

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

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

3.17 **517.09 SOLEMNIZATION.**

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

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

3.29 Sec. 6. **[517.201] RELATIONSHIP TO OTHER LAW; RULES OF**
3.30 **CONSTRUCTION.**

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

4.1 (b) This chapter must not be construed to affect the manner in which a religious
4.2 association, religious corporation, or religious society that is not organized for private
4.3 profit, or an institution organized for educational purposes that is operated, supervised,
4.4 or controlled by a religious association, religious corporation, or religious society that is
4.5 not organized for private profit, provides adoption, foster care, or social services, if that
4.6 association, corporation, society, or educational institution does not receive public funds
4.7 for that specific program or purpose.

4.8 Subd. 2. **Rules of construction.** When necessary to implement the rights and
4.9 responsibilities of spouses or parents under the laws of this state, including those that
4.10 establish parentage presumptions based on marriage, gender-specific terminology, such
4.11 as "husband," "wife," "mother," "father," "widow," "widower," or similar terms, must be
4.12 construed in a neutral manner to refer to a person of either gender.

4.13 Sec. 7. Minnesota Statutes 2012, section 518.07, is amended to read:

4.14 **518.07 RESIDENCE OF PARTIES.**

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

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

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

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

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

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

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

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