

# GENERAL STATUTES

OF

# MINNESOTA

1913

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ever, if it be made to appear that the claimant has knowingly demanded in such statement more than is justly due. (3549)

51-202, 206, 53+362; 52-114, 119, 53+1063; 52-121, 127, 53+1064; 65-271, 68+21; 139+133.

**7086. Promissory note—Effect—**The taking of a promissory note or other written obligation to pay any indebtedness for which a lien is given by this chapter shall not discharge such lien unless the obligation by its terms shall so provide, or the time for payment be thereby extended beyond the date fixed by law for enforcing such lien. (3550)

3-147, 92; 42-433, 44+311; 46-426, 49+195; 64-269, 66+979; 70-507, 512, 73+406, 510.

**7087. Satisfaction—Penalty for refusal—**Every lien claimed under any provision of this chapter shall be satisfied of record, at the expense of the claimant upon payment or tender to him of the amount actually due thereon, or upon written demand made at any time after expiration of the time within which it may be asserted in an action or other proceeding to enforce the same, if it has not been so asserted. Refusal to cause satisfaction to be entered within ten days after such payment, tender, or demand shall render the party so refusing liable in a civil action, to any person interested, for twenty-five dollars as liquidated damages if the lien was claimed upon real estate; otherwise, ten dollars. Also, in either case, for any further damages which the plaintiff may have suffered therefrom. (3551)

34-407, 26+227.

## CHAPTER 70

### MARRIAGE

**7088. Marriage a civil contract—**Marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of the parties capable in law of contracting, is essential. (3552)

23-528.

**7089. Who capable of contracting—**Every male person who has attained the full age of eighteen years, and every female person who has attained the full age of fifteen years, is capable in law of contracting marriage, if otherwise competent. (3553)

78-166, 80+877, 46 L. R. A. 440, 79 Am. St. Rep. 358; 80-216, 83+141.

Cited (99-54, 108+812).

See note under § 8659.

**7090. Marriages prohibited—**No marriage shall be contracted while either of the parties has a husband or wife living; nor within six months after either has been divorced from a former spouse; nor between parties who are nearer of kin than second cousins, whether of the half or whole blood, computed by the rules of the civil law; nor between persons either one of whom is epileptic, imbecile, feeble minded or insane. (R. L. § 3554, amended '11 c. 222 § 1)

55-464, 57+205.

Marriage of divorced persons within six months valid until dissolved by judicial decree (113-503, 130+10).

See § 7106.

**7091. By whom solemnized—**Marriages may be solemnized by any justice of the peace in the county in which he is elected, 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. (3555)

**7092. Credentials of minister—**Ministers of the gospel, before they are authorized to perform the marriage rite, shall file a copy of their credentials of license or ordination with the clerk of the district court of some county in this state, who shall record the same and give a certificate thereof; and the place where such credentials are recorded shall be indorsed upon and recorded with each certificate of marriage granted by a minister. (3556)

**7093. Parties examined**—Every person authorized by law to perform the marriage ceremony, before solemnizing any marriage, may examine the parties on oath, which oath he is authorized to administer, as to the legality of such intended marriage, and no such person shall solemnize a marriage unless he is satisfied that there is no legal impediment thereto. (3557)

**7094. License**—Before any persons shall be joined in marriage, a license shall be obtained from the clerk of the district court of the county in which the woman resides, or, if not a resident of this state, then from such clerk of the county where the marriage is to take place in this state. (3558)

**7095. Examination—License—Consent of parents**—The clerk shall examine upon oath the party applying for a license, relative to the legality of such contemplated marriage, and, if satisfied that there is no legal impediment thereto, he shall issue such license, with his official seal attached, and make a record thereof. If any person intending to marry shall be under age, and shall not have had a former husband or wife, such license shall not be issued unless the consent of the parents or guardians shall be personally given before the clerk, or certified under the hand of such parents or guardians, attested by two witnesses, one of whom shall appear before such clerk and make oath that he saw said parents or guardians subscribe, or heard them acknowledge, the same. The clerk shall be entitled to a fee of two dollars for administering the oath, and issuing, recording, and filing all papers required. Any clerk who shall knowingly issue or sign a marriage license in any other manner than in this section provided shall forfeit and pay for the use of the parties aggrieved not to exceed one thousand dollars. (3559)

Cited (118-170, 136+746).

**7096. Form not essential**—In the solemnization of marriage, no particular form shall be required, except that the parties shall declare in the presence of the judge, minister, or magistrate and the attending witnesses that they take each other as husband and wife; and in every case there shall be at least two witnesses present besides the person performing the ceremony. (3560)

**7097. Certificate given**—The person solemnizing a marriage shall give to each of the parties a certificate thereof, specifying therein the names and residences of the parties, and of at least two of the witnesses present, and the time and place of the marriage. (3561)

**7098. Record and certificate**—Every person solemnizing a marriage shall make a record thereof, and within one month make and file with the clerk of the district court of the county in which the license was issued a certificate, under his hand, containing the facts mentioned in § 7097, which certificate shall be filed and recorded by said clerk in a book kept by him for that purpose; and said clerk shall be entitled to receive twenty-five cents for recording said certificate from the person offering the same for record. (R. L. § 3562, amended '09 c. 386 § 1)

See following section.

**7099. Record and certificate—Receipt**—Every person solemnizing a marriage shall make a record thereof, and within one month make and deliver to the clerk of the district court of the county where the marriage took place, or of the county to which said county is attached for judicial purposes, a certificate under his hand containing the particulars mentioned in the preceding section, which certificate shall be filed and recorded by said clerk in a book by him kept for that purpose, and said clerk shall be entitled to receive the sum of twenty-five cents for recording said certificate from the person offering the same for record. And the clerk of said court shall execute a receipt to the person delivering said certificate, which said receipt shall be of even date with the delivery of said certificate, and shall contain substantially all of the facts set forth in said certificate; be signed by said clerk and have affixed thereto the seal of said court. (G. S. 1894 § 4778, amended '05 c. 294 § 1)

**Historical**—Said section 4778 was G. S. 1866 c. 61 § 11, amended by 1871 c. 94 § 1, and 1883 c. 68 § 1. Said acts were repealed by §§ 9428, 9434, 9445; the provisions of said § 4778 being incorporated in the preceding section. This amended section appears to be superseded by the preceding section.

7100. **Penalty for failure**—Every person solemnizing a marriage who shall neglect to make and deliver to the clerk a certificate thereof within the time above specified shall forfeit a sum not exceeding one hundred dollars, and every clerk who neglects to record such certificate shall forfeit a like sum. (3563)

7101. **Illegal marriage—False certificate**—If any person authorized by law to join persons in marriage shall knowingly solemnize any marriage contrary to the provisions of this chapter, or wilfully make any false certificate of any marriage or pretended marriage, he shall forfeit for every such offence a sum not exceeding five hundred dollars, or may be imprisoned not exceeding one year. (3564)

7102. **By unauthorized persons—Penalty**—If any person undertakes to join others in marriage, knowing that he is not lawfully authorized to do so, or knowing of any legal impediment to the proposed marriage, he shall be guilty of a gross misdemeanor, and upon conviction thereof shall be punished by imprisonment not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment. (3565)

7103. **Want of authority not to avoid**—No marriage solemnized before any person professing to be a judge, justice of the peace, or minister of the gospel shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed officer or person: Provided, 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. (3566)

41-50, 54, 42+602.

7104. **Marriage among 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; and 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 one hundred dollars, and such certificate shall be filed and recorded by the clerk under a like penalty; and, 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 filed and recorded as above provided under a like penalty. (3567)

7105. **Illegitimate children**—Illegitimate children shall become legitimized by the subsequent marriage of their parents to each other, and the issue of marriages declared null in law shall nevertheless be legitimate. (3568)

22-351.

## CHAPTER 71

### DIVORCE

7106. **What marriages void**—All marriages which are prohibited by law on account of consanguinity, or on account of either party having a former husband or wife then living, if solemnized within this state, shall be absolutely void, without any decree of divorce or other legal proceedings: Provided, that if any person whose husband or wife has been absent for five successive years, without being known to such person to be living during that time, marries during the lifetime of such absent husband or wife, the marriage shall be void only from the time that its nullity is duly adjudged. (3569)

41-201, 42+935; 55-464, 57+205.

Legality of marriage of divorced persons within six months of date of divorce as basis for bigamy (113-503, 130+10).

See § 7090.

7107. **What voidable**—When either party to a marriage is incapable of assenting thereto for want of age or understanding, or when the consent of