

# MASON'S MINNESOTA STATUTES

1927

---

PUBLISHED UNDER THE TERMS OF THE CONTRACT MADE BY THE  
STATUTE COMPILATION COMMISSION FOR THE PUBLICATION OF  
THE GENERAL STATUTES OF 1923

EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-  
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT  
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED  
BY THE SUBSEQUENT LEGISLATION OF 1925  
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES  
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE  
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

COMPILED AND EDITED BY THE EDITORIAL STAFF OF THE  
CITER-DIGEST COMPANY

WILLIAM H. MASON,  
Editor in Chief.  
MARTIN S. CHANDLER,  
RICHARD O. MASON,  
Assistant Editors.

---

Citer-Digest Company  
St. Paul  
1927

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. (5551) [7087]

34-407, 26+227.

**8561. Pledgee permitted to buy pledge where sold at public sale**—Whenever a pledgee of personal property has a remedy to enforce his lien upon such property by sale thereof in case of default, by virtue of the con-

tract creating such lien, any such pledgee, his legal representatives or assigns, may, fairly and in good faith, purchase such property or any part thereof, at any sale so made; provided, that such sale, if such pledgee shall wish to bid thereat, shall be at public auction and upon like notice as is required in case of execution sales of personal property in this state, and shall be conducted by the sheriff or his deputy of the county, or by a constable of the town in which such pledged property or some part thereof is situated at the time of giving such notice. ('17 c. 305 § 1)

The pledgee's actual interest is purely contingent in this, that it depends for effect on something that may or may not occur; and the term "indebtedness" as used is construed as meaning a direct and not a contingent liability. 162-455, 203+220.

CHAPTER 70

MARRIAGE

Marriage a civil contract .....	8562
Who capable of contracting .....	8563
Marriages prohibited .....	8564
By whom solemnized .....	8565
Credentials of minister .....	8566
Parties examined .....	8567
License .....	8568
Examination—License—Consent of parents .....	8569
Form not essential .....	8570
Certificate given .....	8571
Record and certificate .....	8572
Record and certificate—Receipt .....	8573
Penalty for failure .....	8574
Illegal marriage—False certificate .....	8575
By unauthorized persons—Penalty .....	8576
Want of authority not to avoid .....	8577
Marriage among quakers .....	8578
Illegitimate children .....	8579

55-464, 57+205.

Marriage of divorced persons within six months valid until dissolved by judicial decree (113-503, 130+10). Epilepsy is not a ground for annulment of marriage (144-95, 174+611; 195+901). 157-250, 195+901; 166-331, 203+14, note under § 8569.

**8565. 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) [7091]

**8566. 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) [7092]

**8567. 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) [7093]

**8568. 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) [7094] 166-331, 203+14, note under § 8569.

**8569. 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

**8562. 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) [7088]

23-528.

Essentials to common law marriage stated. (122-407, 142+593).

Breach of marriage promise—damages. 159-258, 198+669.

**8563. Persons capable of contracting**—Every male person who has attained the full age of 18 years, and every female person who has attained the full age of 16 years, is capable in law of contracting marriage, if otherwise competent. Provided that a female person of the full age of 15 years may with the consent of her parents and her guardian if there be one, receive a license to marry, when, after a careful inquiry into the facts and surrounding circumstances, her application for a license is approved by the judge of the juvenile court of the county in which she resides. (3553) [7089] (Amended '27, c. 166)

166-331, 203+14, note under § 8569.

78-166, 80+877; 80-216, 83+141.

Cited (99-54, 108+812).

**8564. 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) [7090]

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) [7095]

Cited (118-170, 136+746).

Age and residence are material, and a knowingly false answer in such examination as to either may be made the basis for a criminal prosecution for perjury. 166-381, 208+14.

**8570. 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) [7096]

**8571. 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) [7097]

**8572. 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 § 8571, 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) [7098]

See following section.

**8573. 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) [7099]

This amended section appears to be superseded by the preceding section.

**8574. 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) [7100]

**8575. 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) [7101]

**8576. 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) [7102]

**8577. 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) [7103]

41-50, 54, 42+602.

**8578. 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. (2567) [7104]

**8579. 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) [7105]

22-351; 149-79, 182+952.

The marriage of the mother of an illegitimate child to its father under the statute legitimates the child; and a child so legitimated is an heir of other children born to its parents. 160-463, 200+742.

The fact of legitimacy or illegitimacy is provable by family history, reputation and tradition, and by declarations of deceased members of the family. 160-463, 200+742.