

1936 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1936)  
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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hay baled, as the case may be, for the price or value of such service, which shall be preferred to all other liens or incumbrances except those given for seed from which said grain was grown. (R. L. '05, §3546; G. S. '13, §7082; '23, c. 132, §1; Apr. 24, 1929, c. 314, §1.)

**8556. How preserved and enforced.**—Within fifteen days after such threshing, clover hulling, corn picking, corn shelling or shredding, or hay baling is completed the claimant of such lien shall file with the Register of Deeds of the County in which it was done a verified statement of the amounts and kinds of grain threshed, clover hulled, corn picked, corn shelled or shredded, or hay baled, the time and place of doing the same, giving the first and last days thereof, the rates per bushel, per day, per hour or other terms of the contract and the total charge therefor, the amounts paid thereon, if any, and the balance due, the name of the reputed owner and of the person requesting the work to be done, and a notice that a lien is claimed for the amount remaining unpaid. A certified copy of such statement shall authorize the seizure and sale of so much of the grain, clover, corn or hay covered by the lien as may be necessary to satisfy the same, with reasonable costs and expenses, but such seizure must be made, or an action to foreclose be commenced, within six months after such filing. The cost and the expenses above referred to shall include an attorney's fee amounting to 15 per cent of the amount of the lien claimed in the event such lien is not paid within 90 days after the filing thereof and the lien claimant employs an attorney-at-law to collect the same. So far as applicable thereto, the laws relating to the enforcement of chattel mortgages shall govern the foreclosure of liens hereunder. Any person secreting or disposing of property covered by such lien, without the consent of the lienholder, shall be guilty of a misdemeanor, the minimum penalty thereof shall be a fine of \$25.00. (R. L. '05, §3547; G. S. '13, §7083; '21, c. 248, §1; '23, c. 132, §2; Apr. 24, 1929, c. 314, §2.)

**8556-3. Lien for hospital charges.**—Any person, firm or corporation operating a hospital in this state shall have a lien for the reasonable charges for hospital care of an injured person upon any and all causes of action accruing to the person to whom such care was furnished, or to the legal representatives of such person, on account of injuries giving rise to such causes of action and which necessitated such hospital care, subject, however, to any attorney's lien. (Act Apr. 20, 1933, c. 345, §1.)

**8556-4. Claim to be filed with clerk of the District Court.**—In order to perfect such lien, the operator of such hospital, before, or within ten days after, such person shall have been discharged therefrom, shall file in the office of the clerk of the district court of the county in which such hospital shall be located a verified statement in writing setting forth the name

and address of such patient, as it shall appear on the records of such hospital, the name and location of such hospital and the name and address of the operator thereof, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital care, and, to the best of claimant's knowledge, the names and addresses of all persons, firms or corporations claimed by such injured person, or the legal representatives of such person, to be liable for damages arising from such injuries; such claimant shall also, within one day after the filing of such claim or lien, mail a copy thereof, by registered mail, to each person, firm or corporation so claimed to be liable for such damages to the address so given in such statement. The filing of such claim or lien shall be notice thereof to all person, firms or corporations liable for such damages whether or not they are named in such claim or lien. (Act Apr. 20, 1933, c. 345, §2.)

**8556-5. Clerk to provide record.**—The clerk of court shall endorse thereon the date and hour of filing and, at the expense of the county, shall provide a hospital lien book with proper index in which he shall enter the date and hour of such filing, the names and addresses of such hospital, the operators thereof and of such patient, the amount claimed and the names and addresses of those claimed to be liable for damages. He shall be paid one dollar as his fee for such filing. (Act Apr. 20, 1933, c. 345, §3.)

**8556-6. Release.**—No release of such causes of action, or any of them, or of any judgment thereon shall be valid or effectual as against such lien unless such lienholder shall join therein, or execute a release of such lien, and the claimant, or assignee of such lien, may enforce such lien by action against the person, firm or corporation liable for such damages, which action shall be commenced and tried in the county in which such lien shall be filed, unless ordered removed to another county by the court for cause. If the claimant shall prevail in such action, the court may allow reasonable attorneys' fees and disbursements. Such action shall be commenced within two years after the filing of such lien. (Act Apr. 20, 1933, c. 345, §4.)

**8556-7. Not to apply to workmen's compensation.**—The provisions of this act shall not apply to any moneys becoming due under the Workmen's Compensation Act of this state. (Act Apr. 20, 1933, c. 345, §5.)

Sec. 6 of Act Apr. 20, 1933, cited, provides that the act shall take effect from its passage.

#### GENERAL PROVISIONS

**8561. Pledgee permitted to buy pledge where sold at public sale.**

Sheriff is entitled to fees of \$4.50 for posting notices and making sale. Op. Atty. Gen., May 20, 1929.

## CHAPTER 70

### Marriage

#### 8562. Marriage a civil contract.

Marriage may be annulled where the defendant was prohibited by law from entering into it because he had been divorced from a former wife within six months, and induced the consent of plaintiff by a false representation of no divorce within the six-month period. 171M340, 214 NW650.

Where the promises of the husband, under an antenuptial contract, to make payments of money to his wife have matured and the money has become due, the causes of action so perfected are not defeated by the wife's subsequent desertion of the husband. 172M91, 214NW791.

Alienation of affections and damages therefor. 177M 270, 224NW839.

Essentials of common-law marriage between single man and married woman by cohabitation and consent following death of husband of woman. 180M463, 231NW 199.

Contract whereby plaintiff was employed at a stipulated compensation per month as a farm hand was not

abrogated by marriage of plaintiff to his employer, but remained a binding obligation upon her, and he could recover for work performed after the marriage. Archer v. M., 183M306, 236NW455. See Dun. Dig. 4258.

Circumstantial evidence necessary to show common-law marriage estate. Ghelin v. J., 186M405, 243NW443. See Dun. Dig. 5796.

General reputation alone that parties are married is not alone sufficient to show common-law marriage. Ghelin v. J., 186M405, 243NW443.

Validity of marriage celebrated in foreign state in violation of statute of domicile. 16MinnLawRev173.

#### 8563. Persons capable of contracting.

A male person over 18 but under 21 years of age, and a female over 16 but under 18 years of age, cannot procure a marriage license without the consent of parents or guardians. Op. Atty. Gen., Feb. 13, 1930.

#### 8564. Marriages prohibited.

Marriage to woman who had been divorced less than a year, and who was prohibited from remarrying by the

laws of Wisconsin, held invalid under this section. 34F (2d)284.

Marriage may be annulled where it took place within six months after divorce of defendant, through false representation. 171M340, 214NW650.

Evidence held not to show common-law marriage. 175 M547, 221NW911.

State v. Yoder, 113M503, 130NW10, L. R. A. 1916C, 686, followed to the effect that a marriage within the time during which the parties may not remarry, may be voidable but is not void under our laws. Ommang's Estate, 183M92, 235NW529. See Dun. Dig. 5788(68).

Marriage in Minnesota within one year after divorce in Wisconsin was valid, though it would be void under Wisconsin law. Ommang's Estate, 183M92, 235NW529. See Dun. Dig. 1557, 5788(68).

This statute prohibits the remarriage within six months of persons who have been divorced from each other. Op. Atty. Gen., Sept. 3, 1931.

Marriage is forbidden between a woman and her mother's first cousin. Op. Atty. Gen. (300j), Feb. 26, 1935.

#### 8565. By whom solemnized.

Probate judge performing marriage ceremonies is not required to turn over fee to county. Op. Atty. Gen., June 22, 1933.

#### 8568. License.

No marriage can be solemnized without a license being first issued therefor, notwithstanding pre-existing common-law marriage. Op. Atty. Gen., Feb. 17, 1933.

Clerk of court may issue a second marriage license when any female decides to marry a different man, though first man refuses to surrender the first license. Op. Atty. Gen., Nov. 27, 1933.

**8569. Marriage licenses.**—Application for a marriage license shall be made at least five days before a license shall be issued. The clerk shall examine upon oath the party applying for license relative to the legality of such contemplated marriage, and if, at the expiration of said five-day period, satisfied that there is no legal impediment thereto, he shall issue such license, with his official seal attached, and make a record thereof, provided, that in case of emergency, or extraordinary circumstances, the judge of the probate court or any 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 the expiration of said five days. 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. (R. L. '05, §3559; G. S. '13, §7095; Apr. 25, 1931, c. 401, §1.)

Marriage may be annulled where it took place within six months after divorce of defendant, through false representation. 171M340, 214NW650.

A male person over 18 but under 21 years of age and a female over 16 but under 18 years of age cannot procure a marriage license without the consent of parents or guardians. Op. Atty. Gen., Feb. 13, 1930.

In computing the five-day period, the day on which the application is made is to be excluded and the day the license is issued is to be included. Op. Atty. Gen., Apr. 29, 1931.

Fractions of days may not be considered in determining five days after which a marriage license may be issued. Op. Atty. Gen., May 9, 1931.

Consent of parents may be given any time during the five-day period. Op. Atty. Gen., June 2, 1931.

A party applying for a license must appear personally before the clerk. Op. Atty. Gen., June 2, 1931.

After the five-day period has expired, it is proper to mail the license to the applicant. Op. Atty. Gen., June 19, 1931.

The mother of two dependent children born of a bigamous marriage may receive a county allowance to enable her to care for these children in her home. Op. Atty. Gen., Sept. 26, 1931.

Marriage is forbidden between a woman and her mother's first cousin. Op. Atty. Gen. (300j), Feb. 26, 1935.

A court commissioner has power to waive five-day waiting period for marriage license, and express desire of judge of district court that court commissioners do not exercise such power is of no force and effect. Op. Atty. Gen. (128b), June 21, 1935.

#### 8579. Illegitimate children.

This statute does not refer to the children of one marrying while still having a spouse by a prior voidable marriage. 175M547, 221NW911.

The presumption of the legitimacy of a child conceived during wedlock, while strong, is not conclusive. State v. Soyka, 181M533, 233NW300. See Dun. Dig. 3432.

Marriage of parents legitimized child and purged begetting of all meretricious aspect, as affecting necessity of consent to adoption. Anderson, 189M85, 248NW657. See Dun. Dig. 844(19).

Issue of bigamous marriage is legitimate. Op. Atty. Gen., July 25, 1933.

## CHAPTER 71

### Divorce

See §§208-1 to 208-9.

#### 8580. What marriages void.

One who married during the existence of a voidable marriage was guilty of bigamy. 175M498, 221NW867.

Evidence held not to show common-law marriage. 175 M547, 221NW911.

A widow of a member of fire department relief association, recipient of a pension under its constitution and by-laws, terminated her right to such pension by a marriage and is not entitled to reinstatement as a pensioner upon such marriage being annulled by a judgment of a court of competent jurisdiction. Northrup v. S., 193 M623, 259NW185. See Dun. Dig. 6605a.

#### 8581. What voidable.

175M498, 221NW867; note under §8580.

Marriage may be annulled where it took place within six months after divorce of defendant, through false representation. 171M340, 214NW650.

Denial of intercourse is not ground for annulment of marriage unless at the time of the marriage the offending spouse entertained an intention not to fulfill her marital obligations. Osbon v. O., 185M300, 240NW894. See Dun. Dig. 5797.

A widow of a member of fire department relief association, recipient of a pension under its constitution and by-laws, terminated her right to such pension by a marriage and is not entitled to reinstatement as a pensioner upon such marriage being annulled by a judgment of a court of competent jurisdiction. Northrup v. S., 193M 623, 259NW185. See Dun. Dig. 6605a.

#### 8582. Action to annul.

Jurisdiction to annul a marriage—Conflict of laws. 16 MinnLawRev398.

#### 8583. When not annulled.

Application of clean hands doctrine to annulment of void marriages. 16MinnLawRev215.

**8585. Grounds for divorce.**—A divorce from the bonds of matrimony may be adjudged by the district court for any of the following causes:

1. Adultery.
2. Impotency.
3. Cruel and inhuman treatment.
4. Sentence to imprisonment in any state or United States prison or any state or United States reformatory subsequent to the marriage; and in such a case a pardon shall not restore the conjugal rights.
5. Wilful desertion for one year next preceding the commencement of the action.
6. Habitual drunkenness for one year immediately preceding the commencement of the action.
7. Incurable insanity, provided that no divorce shall be granted upon this ground unless the insane party shall have been under regular treatment for insanity, and because thereof, confined in an institution for a period of at least five years immediately preceding the commencement of the action. In granting a divorce upon this ground, notice of the pendency of the action shall be served in such man-