

Domestic Relations

CHAPTER 517

MARRIAGE

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517.01 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. Lawful marriage hereafter may be contracted only when a license has been obtained therefor as provided by law and when such marriage is contracted in the presence of two witnesses and solemnized by one authorized, or whom the parties in good faith believe to be authorized, so to do. Marriages subsequent to the passage of this section not so contracted shall be null and void.

[R. L. s. 3552; 1941 c. 459] (8562)

517.02 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. 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 the surrounding circumstances, her application for a license is approved by the judge of the juvenile court of the county in which she resides.

[R. L. s. 3553; 1927 c. 166] (8563)

517.03 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; nor between persons one or both of whom are under 15 years of age.

[R. L. s. 3554; 1911 c. 222 s. 1; 1937 c. 407 s. 1] (8564)

517.04 WHO MAY SOLEMNIZE. 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.

[R. L. s. 3555] (8565)

517.05 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 endorsed upon and recorded with each certificate of marriage granted by a minister.

[R. L. s. 3556] (8566)

517.06 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.

[*R. L. s. 3557*] (*8567*)

517.07 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.

[*R. L. s. 3558*] (*8568*)

517.08 APPLICATION FOR LICENSE. 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 this 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. 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 the five days. If any person intending to marry shall be under the age of 21, if a male, and under the age of 18, if a female, 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, and duly verified by an officer duly authorized to take oaths and duly attested by a seal, where such officer has a seal. The clerk shall be entitled to a fee of \$2.00 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 \$1,000.

[*R. L. s. 3559; 1931 c. 401 s. 1; 1939 c. 243*] (*8569*)

517.09 CEREMONIAL REQUISITES. 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.

[*R. L. s. 3560*] (*8570*)

517.10 CERTIFICATE; WITNESSES. 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.

[*R. L. s. 3561*] (*8571*)

517.11 OFFICIATING PERSON SHALL RECORD 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 section 517.10, which certificate shall be filed and recorded by the clerk in a book kept by him for that purpose; and the clerk shall be entitled to receive 25 cents for recording the certificate from the person offering the same for record.

[*R. L. s. 3562; 1909 c. 386 s. 1*] (*8572*)

517.12 CLERK SHALL RECORD CERTIFICATE AND DELIVER 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 the county is attached for judicial purposes, a certificate under his hand containing the particulars mentioned in section 517.11, which certificate shall be filed and recorded by the clerk in a book by him kept for that purpose, and the clerk shall be entitled to receive the sum of 25 cents for recording the certificate from the person offering the same for record. The clerk of the court shall execute a receipt to the person delivering the certificate, which receipt shall be of even date with the delivery of the certificate and contain substantially all of the facts set forth in the certificate; be signed by the clerk and have affixed thereto the seal of the court.

[*G. S. 1894 s. 4778; 1905 c. 294 s. 1*] (*8573*)

NOTE: This section may be superseded by section 517.11.

517.13 PENALTY FOR FAILURE TO DELIVER AND FILE CERTIFICATE. 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 \$100.00, and every clerk who neglects to record such certificate shall forfeit a like sum.

[R. L. s. 3563] (8574)

517.14 ILLEGAL MARRIAGE; FALSE CERTIFICATE; PENALTY. 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 offense a sum not exceeding \$500.00, or may be imprisoned not exceeding one year.

[R. L. s. 3564] (8575)

517.15 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, punished by imprisonment of not more than one year, or by a fine of not more than \$500.00, or by both such fine and imprisonment.

[R. L. s. 3565] (8576)

517.16 IMMATERIAL IRREGULARITY OF OFFICIATING PERSON NOT TO VOID. 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.

[R. L. s. 3566] (8577)

517.17 SOLEMNIZING UNLAWFUL MARRIAGES. Every minister or magistrate who shall solemnize a marriage when either party thereto is known to him to be under the age of legal consent, or to be an idiot or insane person, or a marriage to which, within his knowledge, a legal impediment exists, shall be guilty of a gross misdemeanor.

[R. L. s. 5165] (10460)

517.18 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 \$100.00, 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.

[R. L. s. 3567] (8578)

517.19 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.

[R. L. s. 3568] (8579)