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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1687

04/04/2013 Authored by Kelly, McNamara, Kieffer, Franson and Garofalo
The bill was read for the first time and referred to the Committee on Civil Law

1.1 A bill for an act
1.2 relating to civil law; providing for civil union relationships; amending Minnesota
1.3 Statutes 2012, sections 517.01; 517.02; 517.03; 517.07; 517.08, subdivision 1a;
1.4 517.10; 517.101; 517.20; proposing coding for new law in Minnesota Statutes,
1.5 chapter 517.

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

1.7 Section 1. Minnesota Statutes 2012, section 517.01, is amended to read:

1.8 **517.01 MARRIAGE ~~A~~; CIVIL ~~CONTRACT~~ UNION CONTRACTS.**

1.9 (a) Marriage, so far as its validity in law is concerned, is a civil contract between a
1.10 man and a woman, to which the consent of the parties, capable in law of contracting, is
1.11 essential. Lawful marriage may be contracted only between persons of the opposite sex
1.12 and only when a license has been obtained as provided by law and when the marriage is
1.13 contracted in the presence of two witnesses and solemnized by one authorized, or whom
1.14 one or both of the parties in good faith believe to be authorized, so to do. Marriages
1.15 subsequent to April 26, 1941, not so contracted shall be null and void.

1.16 (b) A civil union, so far as its validity in law is concerned, is a civil contract between
1.17 two parties, recognized by the state of Minnesota, to which the consent of the parties,
1.18 capable in law of contracting, is essential. A civil union contract is only valid when a
1.19 license has been obtained as provided by law and when the civil union is contracted in
1.20 the presence of two witnesses. Every person who has attained the full age of 18 years is
1.21 capable in law of contracting a civil union, if otherwise competent.

1.22 Sec. 2. Minnesota Statutes 2012, section 517.02, is amended to read:

1.23 **517.02 PERSONS CAPABLE OF CONTRACTING.**

2.1 Every person who has attained the full age of 18 years is capable in law of
 2.2 contracting marriage or a civil union, if otherwise competent. A person of the full age of
 2.3 16 years may, with the consent of the person's legal custodial parents, guardian, or the
 2.4 court, as provided in section 517.08, receive a license to marry, when, after a careful
 2.5 inquiry into the facts and the surrounding circumstances, the person's application for a
 2.6 license and consent for marriage of a minor form is approved by the judge of the district
 2.7 court of the county in which the person resides. If the judge of the district court of the
 2.8 county in which the person resides is absent from the county and has not by order assigned
 2.9 another judge or a retired judge to act in the judge's stead, then the court commissioner or
 2.10 any judge of district court of the county may approve the application for a license.

2.11 The consent for marriage of a minor must be in the following form:

2.12 STATE OF MINNESOTA, COUNTY OF (insert county name)

2.13 I/We (insert legal custodial parent or guardian names) under oath
 2.14 or affirmation say:

2.15 That I/we are the legal custodial parent(s) or guardian of
 2.16 (insert name of minor), who was born at (insert place of birth) on
 2.17 (insert date of birth) who is presently the age of (insert age).

2.18 That the minor has not been previously married.

2.19 That I/we consent to the marriage of this minor to (insert name of
 2.20 the person minor intends to marry) who is of the age of (insert age).

2.21 That affidavit is being made for the purpose of requesting the judge's consent to
 2.22 allow this minor to marry and make this marriage legal.

2.23 Date:

2.24
 2.25

2.26 (Signature of legal custodial parents or guardian)

2.27 Sworn to or affirmed and acknowledged before me on this day of
 2.28

2.29 NOTARY PUBLIC

2.30 STATE OF MINNESOTA, COUNTY OF (insert county name).

2.31 The undersigned is the judge of the district court where the minor resides and grants
 2.32 the request for the minor to marry.

2.33 (judge of district court)

2.34 (date).

3.1 Sec. 3. Minnesota Statutes 2012, section 517.03, is amended to read:

3.2 **517.03 PROHIBITED MARRIAGES AND CIVIL UNION CONTRACTS.**

3.3 Subdivision 1. **General.** ~~(a)~~ The following marriages and civil union contracts
3.4 are prohibited:

3.5 (1) a marriage or civil union contract entered into before the dissolution of an earlier
3.6 marriage or civil union contract of one of the parties becomes final, as provided in section
3.7 518.145 or by the law of the jurisdiction where the dissolution was granted;

3.8 (2) a marriage or civil union contract between an ancestor and a descendant, or
3.9 between a brother and a sister, whether the relationship is by the half or the whole blood
3.10 or by adoption;

3.11 (3) a marriage or civil union contract between an uncle and a niece, between an aunt
3.12 and a nephew, or between first cousins, whether the relationship is by the half or the
3.13 whole blood, except as to marriages permitted by the established customs of aboriginal
3.14 cultures; and

3.15 (4) a marriage between persons of the same sex.

3.16 ~~(b) A marriage entered into by persons of the same sex, either under common law or~~
3.17 ~~statute, that is recognized by another state or foreign jurisdiction is void in this state and~~
3.18 ~~contractual rights granted by virtue of the marriage or its termination are unenforceable in~~
3.19 ~~this state.~~

3.20 Subd. 2. **Developmentally disabled persons; consent by commissioner of**
3.21 **human services.** Developmentally disabled persons committed to the guardianship of
3.22 the commissioner of human services and developmentally disabled persons committed
3.23 to the conservatorship of the commissioner of human services in which the terms of the
3.24 conservatorship limit the right to marry or enter a civil union contract, may marry or enter
3.25 a civil union contract on receipt of written consent of the commissioner. The commissioner
3.26 shall grant consent unless it appears from the commissioner's investigation that the
3.27 marriage or civil union contract is not in the best interest of the ward or conservatee and
3.28 the public. The local registrar in the county where the application for a license is made by
3.29 the ward or conservatee shall not issue the license unless the local registrar has received a
3.30 signed copy of the consent of the commissioner of human services.

3.31 Sec. 4. Minnesota Statutes 2012, section 517.07, is amended to read:

3.32 **517.07 LICENSE.**

3.33 Before any persons are joined in marriage or a civil union contract in Minnesota, a
3.34 license shall be obtained from the local registrar of any county within Minnesota. The

4.1 marriage or civil union contract need not ~~take place~~ be formally entered in the county where
 4.2 the license is obtained but must take place within the geographical borders of Minnesota.

4.3 Sec. 5. Minnesota Statutes 2012, section 517.08, subdivision 1a, is amended to read:

4.4 Subd. 1a. **Form.** Application for a marriage or civil union contract license shall
 4.5 be made by both of the parties upon a form provided for the purpose and shall contain
 4.6 the following information:

4.7 (1) the full names of the parties and the sex of each party;

4.8 (2) their post office addresses and county and state of residence;

4.9 (3) their full ages;

4.10 (4) if either party has previously been married, the party's married name, and the
 4.11 date, place and court in which the marriage was dissolved or annulled or the date and
 4.12 place of death of the former spouse;

4.13 (5) if either party has previously been a party to a civil union contract, the date of the
 4.14 civil union contract, and the place and court in which the civil union contract was dissolved;

4.15 ~~(5)~~ (6) if either party is a minor, the name and address of the minor's parents or
 4.16 guardian;

4.17 ~~(6)~~ (7) whether the parties are related to each other, and, if so, their relationship;

4.18 ~~(7)~~ (8) address of the ~~bride and groom parties~~ parties after the marriage or civil union
 4.19 contract is entered to which the local registrar shall send a certified copy of the marriage
 4.20 certificate or civil union contract;

4.21 ~~(8)~~ (9) the full names the parties will have after marriage or the civil union contract
 4.22 is entered and the parties' Social Security numbers. The Social Security numbers must be
 4.23 collected for the application but must not appear on the marriage license or civil union
 4.24 contract. If a party listed on a marriage application does not have a Social Security
 4.25 number, the party must certify on the application, or a supplement to the application, that
 4.26 the party does not have a Social Security number;

4.27 ~~(9)~~ (10) if one or both of the individual parties to the marriage license has a felony
 4.28 conviction under Minnesota law or the law of another state or federal jurisdiction, the
 4.29 parties shall provide to the county proof of service upon the prosecuting authority and, if
 4.30 applicable, the attorney general, as required by section 259.13; and

4.31 ~~(10)~~ (11) notice that a party who has a felony conviction under Minnesota law or the
 4.32 law of another state or federal jurisdiction may not use a different name after marriage
 4.33 or a civil union is entered except as authorized by section 259.13, and that doing so is a
 4.34 gross misdemeanor.

5.1 Sec. 6. Minnesota Statutes 2012, section 517.10, is amended to read:

5.2 **517.10 CERTIFICATE; WITNESSES.**

5.3 The person solemnizing a marriage or the local registrar of each county shall prepare
5.4 and sign a certificate of lawful marriage or a civil union contract. The certificate shall
5.5 contain the full names of the parties before and after marriage or the civil union contract, the
5.6 birth dates of the parties, and county and state of residences of the parties and the date and
5.7 place of the marriage or civil union contract. The certificate shall also contain the signatures
5.8 of at least two of the witnesses present at the marriage or at the time the civil union contract
5.9 was signed who shall be at least 16 years of age. The person solemnizing the marriage or
5.10 the registrar shall immediately make a record of such marriage or civil union contract, and
5.11 file such certificate with the local registrar of the county in which the license was issued
5.12 within five days after the ceremony or within five days after the civil union contract was
5.13 signed. The local registrar shall record such certificate in the county marriage records.

5.14 Sec. 7. Minnesota Statutes 2012, section 517.101, is amended to read:

5.15 **517.101 CERTIFIED COPIES OF MARRIAGE CERTIFICATE OR**
5.16 **CONTRACT FOR CIVIL UNION.**

5.17 Within ten days of receipt of the certificate and after recording the certificate the local
5.18 registrar shall prepare a certified copy of the certificate to be mailed to the ~~married~~ parties.

5.19 Sec. 8. Minnesota Statutes 2012, section 517.20, is amended to read:

5.20 **517.20 APPLICATION.**

5.21 ~~Except as provided in section 517.03, subdivision 1, paragraph (b),~~ All marriages
5.22 and civil unions contracted within this state ~~prior to March 1, 1979~~ or outside this state
5.23 that were valid at the time of the contract or subsequently validated by the laws of the
5.24 place in which they were contracted or by the domicile of the parties are valid in this state.

5.25 Sec. 9. **[517.23] MEANING OF CIVIL UNION CONTRACT.**

5.26 (a) Wherever the term "marriage," "marital," "marry," or "married" is used in
5.27 Minnesota Statutes in reference to the rights, obligations, or privileges of a couple under
5.28 law, the term shall include a civil union contract, or parties to a civil union contract, as
5.29 established by this chapter. A term subject to this definition must also be interpreted in
5.30 reference to the context in which it appears, but may not be interpreted to limit or exclude
5.31 any parties who have entered a valid civil union contract under this chapter.

6.1 (b) To the extent that provisions of the laws of this state, whether derived from
6.2 statutes, administrative rules or regulations, court rules, governmental policies, common
6.3 law, court decisions, or any other provisions or sources of law, including in equity, adopt,
6.4 refer to, or rely upon in any manner provisions of United States federal law that would
6.5 have the effect of parties to a civil union being treated differently than married spouses,
6.6 parties to a civil union shall be treated in all respects by the laws of this state as if United
6.7 States federal law recognizes a civil union in the same manner as the laws of this state.

6.8 Sec. 10. **EFFECTIVE DATE.**

6.9 Sections 1 to 9 are effective August 1, 2013, and apply to civil union contracts
6.10 applied for on or after that date.