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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 695

February 12, 2009

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The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

March 5, 2009

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Civil Justice

1.1 A bill for an act
1.2 relating to marriage; clarifying and modifying certain terms and procedures;
1.3 specifying forms; amending Minnesota Statutes 2008, sections 517.02; 517.03,
1.4 subdivision 2; 517.04; 517.05; 517.06; 517.07; 517.08, subdivisions 1a, 1b;
1.5 517.10; 517.101; 517.13.

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

1.7 Section 1. Minnesota Statutes 2008, section 517.02, is amended to read:

1.8 517.02 PERSONS CAPABLE OF CONTRACTING.

1.9 Every person who has attained the full age of 18 years is capable in law of
1.10 contracting marriage, if otherwise competent. A person of the full age of 16 years may,
1.11 with the consent of the person's legal custodial parents, guardian, or the court, as provided
1.12 in section 517.08, receive a license to marry, when, after a careful inquiry into the facts
1.13 and the surrounding circumstances, the person's application for a license and consent
1.14 for marriage of a minor form is approved by the judge of the juvenile district court of
1.15 the county in which the person resides. If the judge of juvenile the district court of the
1.16 county in which the person resides is absent from the county and has not by order assigned
1.17 another judge or a retired judge to act in the judge's stead, then the court commissioner or
1.18 any judge of district court of the county may approve the application for a license.

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

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

1.21 I/We (insert legal custodial parent or guardian names) under oath

1.22 or affirmation say:

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

2.4 That the minor has not been previously married.

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

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

2.9 Date:

2.10

2.11

2.12 (Signature of legal custodial parents or guardian)

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

2.14

2.15 NOTARY PUBLIC

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

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

2.19 (judge of district court)

2.20 (date).

2.21 Sec. 2. Minnesota Statutes 2008, section 517.03, subdivision 2, is amended to read:

2.22 Subd. 2. **Developmentally disabled persons; consent by commissioner of**
 2.23 **human services.** Developmentally disabled persons committed to the guardianship of
 2.24 the commissioner of human services and developmentally disabled persons committed
 2.25 to the conservatorship of the commissioner of human services in which the terms of
 2.26 the conservatorship limit the right to marry, may marry on receipt of written consent
 2.27 of the commissioner. The commissioner shall grant consent unless it appears from the
 2.28 commissioner's investigation that the marriage is not in the best interest of the ward or
 2.29 conservatee and the public. The ~~court administrator of the district court~~ local registrar in
 2.30 the county where the application for a license is made by the ward or conservatee shall
 2.31 not issue the license unless the ~~court administrator~~ local registrar has received a signed
 2.32 copy of the consent of the commissioner of human services.

3.1 Sec. 3. Minnesota Statutes 2008, section 517.04, is amended to read:

3.2 **517.04 SOLEMNIZATION PERSONS AUTHORIZED TO PERFORM**
 3.3 **MARRIAGES.**

3.4 Marriages may be solemnized throughout the state by an individual who has attained
 3.5 the age of 21 years and is a judge of a court of record, a retired judge of a court of record,
 3.6 a court administrator, a retired court administrator with the approval of the chief judge of
 3.7 the judicial district, a former court commissioner who is employed by the court system or
 3.8 is acting pursuant to an order of the chief judge of the commissioner's judicial district, the
 3.9 residential school administrators of the Minnesota State Academy for the Deaf and the
 3.10 Minnesota State Academy for the Blind, a licensed or ordained minister of any religious
 3.11 denomination, or by any mode recognized in section 517.18.

3.12 Sec. 4. Minnesota Statutes 2008, section 517.05, is amended to read:

3.13 **517.05 CREDENTIALS OF MINISTER.**

3.14 Ministers of any religious denomination, before they are authorized to solemnize a
 3.15 marriage, shall file a copy of their credentials of license or ordination or, if their religious
 3.16 denomination does not issue credentials, authority from the minister's spiritual assembly,
 3.17 with the ~~court administrator of the district court~~ local registrar of a county in this state,
 3.18 who shall record the same and give a certificate of filing thereof. The place where the
 3.19 credentials are recorded shall be endorsed upon and recorded with each certificate of
 3.20 marriage granted by a minister.

3.21 Sec. 5. Minnesota Statutes 2008, section 517.06, is amended to read:

3.22 **517.06 PARTIES EXAMINED.**

3.23 Every person authorized by law to perform the marriage ceremony, before
 3.24 solemnizing a marriage, may examine the parties on oath, which oath the person is
 3.25 authorized to administer, as to the legality of the intended marriage, ~~and~~. No person
 3.26 shall solemnize a marriage unless satisfied that there is no legal impediment to it, that a
 3.27 marriage license has been obtained, and that the individuals present are the persons named
 3.28 in the license.

3.29 Sec. 6. Minnesota Statutes 2008, section 517.07, is amended to read:

3.30 **517.07 LICENSE.**

3.31 Before any persons are joined in marriage in Minnesota, a license shall be obtained
 3.32 from the local registrar of any county within Minnesota. The marriage need not take place

4.1 in the county where the license is obtained but must take place within the geographical
 4.2 borders of Minnesota.

4.3 Sec. 7. Minnesota Statutes 2008, section 517.08, subdivision 1a, is amended to read:

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

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

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

4.8 (3) their full ages;

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

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

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

4.14 ~~(7) the name and date of birth of any child of which both parties are parents, born~~
 4.15 ~~before the making of the application, unless their parental rights and the parent and child~~
 4.16 ~~relationship with respect to the child have been terminated;~~

4.17 ~~(8)~~ address of the bride and groom after the marriage to which the ~~court administrator~~
 4.18 local registrar shall send a certified copy of the marriage certificate;

4.19 ~~(9)~~ (8) the full names the parties will have after marriage and the parties' Social
 4.20 Security numbers. The Social Security numbers must be collected for the application
 4.21 but must not appear on the marriage license. If a party listed on a marriage application
 4.22 does not have a Social Security number, the party must certify on the application, or a
 4.23 supplement to the application, that the party does not have a Social Security number;

4.24 ~~(10)~~ (9) if one or both of the parties to the marriage license has a felony conviction
 4.25 under Minnesota law or the law of another state or federal jurisdiction, the parties shall
 4.26 provide to the county proof of service upon the prosecuting authority and, if applicable,
 4.27 the attorney general, as required by section 259.13; and

4.28 ~~(11)~~ (10) notice that a party who has a felony conviction under Minnesota law or the
 4.29 law of another state or federal jurisdiction may not use a different ~~surname~~ name after
 4.30 marriage except as authorized by section 259.13, and that doing so is a gross misdemeanor.

4.31 Sec. 8. Minnesota Statutes 2008, section 517.08, subdivision 1b, is amended to read:

4.32 Subd. 1b. **Term of license; fee; premarital education.** (a) The local registrar shall
 4.33 examine upon oath the ~~party~~ parties applying for a license relative to the legality of the
 4.34 contemplated marriage. If one party is unable to appear in person, the party appearing may

5.1 complete the absent applicant's information. The local registrar shall provide a copy of the
 5.2 marriage application to the party who is unable to appear, who must verify the accuracy of
 5.3 the party's information in a notarized statement. The marriage license must not be released
 5.4 until the verification statement has been received by the local registrar. If at the expiration
 5.5 of a five-day period, on being satisfied that there is no legal impediment to it, including
 5.6 the restriction contained in section 259.13, the local registrar shall issue the license,
 5.7 containing the full names of the parties before and after marriage, and county and state of
 5.8 residence, with the county seal attached, and make a record of the date of issuance. The
 5.9 license shall be valid for a period of six months. ~~In case of emergency or extraordinary~~
 5.10 ~~circumstances, a judge of the district court of the county in which the application is made,~~
 5.11 ~~may authorize the license to be issued at any time before the expiration of the five days.~~
 5.12 Except as provided in paragraph (b), the local registrar shall collect from the applicant a
 5.13 fee of \$110 for administering the oath, issuing, recording, and filing all papers required,
 5.14 and preparing and transmitting to the state registrar of vital statistics the reports of
 5.15 marriage required by this section. If the license should not be used within the period of six
 5.16 months due to illness or other extenuating circumstances, it may be surrendered to the
 5.17 local registrar for cancellation, and in that case a new license shall issue upon request of
 5.18 the parties of the original license without fee. A local registrar who knowingly issues or
 5.19 signs a marriage license in any manner other than as provided in this section shall pay
 5.20 to the parties aggrieved an amount not to exceed \$1,000.

5.21 (b) In case of emergency or extraordinary circumstances, a judge of the district court
 5.22 of the county in which the application is made may authorize the license to be issued at
 5.23 any time before expiration of the five-day period required under paragraph (a). A waiver
 5.24 of the five-day waiting period must be in the following form:

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

5.26 APPLICATION FOR WAIVER OF MARRIAGE LICENSE WAITING PERIOD:

5.27 (legal names of the applicants)

5.28 Represent and state as follows:

5.29 That on (date of application) the applicants applied to the local
 5.30 registrar of the above-named county for a license to marry.

5.31 That it is necessary that the license be issued before the expiration of five days
 5.32 from the date of the application by reason of the following: (insert reason for requesting
 5.33 waiver of waiting period)

5.34
 5.35
 5.36

6.1 WHEREAS, the applicants request that the judge waive the required five-day
 6.2 waiting period and the local registrar be authorized and directed to issue the marriage
 6.3 license immediately.

6.4 Date:
 6.5
 6.6

6.7 (Signatures of applicants)
 6.8 Acknowledged before me on this day of
 6.9

6.10 NOTARY PUBLIC

6.11 COURT ORDER AND AUTHORIZATION:

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

6.13 After reviewing the above application, I am satisfied that an emergency or
 6.14 extraordinary circumstance exists that justifies the issuance of the marriage license before
 6.15 the expiration of five days from the date of the application. IT IS HEREBY ORDERED
 6.16 that the local registrar is authorized and directed to issue the license forthwith.

6.17
 6.18 (judge of district court)
 6.19 (date).

6.20 (c) The marriage license fee for parties who have completed at least 12 hours of
 6.21 premarital education is \$40. In order to qualify for the reduced license fee, the parties must
 6.22 submit at the time of applying for the marriage license a signed ~~and~~ dated, and notarized
 6.23 statement from the person who provided the premarital education on their letterhead
 6.24 confirming that it was received. The premarital education must be provided by a licensed
 6.25 or ordained minister or the minister's designee, a person authorized to solemnize marriages
 6.26 under section 517.18, or a person authorized to practice marriage and family therapy under
 6.27 section 148B.33. The education must include the use of a premarital inventory and the
 6.28 teaching of communication and conflict management skills.

6.29 ~~(e)~~ (d) The statement from the person who provided the premarital education under
 6.30 paragraph (b) must be in the following form:

6.31 "I, (name of educator), confirm that (names of
 6.32 both parties) received at least 12 hours of premarital education that included the use of a
 6.33 premarital inventory and the teaching of communication and conflict management skills.
 6.34 I am a licensed or ordained minister, a person authorized to solemnize marriages under
 6.35 Minnesota Statutes, section 517.18, or a person licensed to practice marriage and family
 6.36 therapy under Minnesota Statutes, section 148B.33."

7.1 The names of the parties in the educator's statement must be identical to the legal
 7.2 names of the parties as they appear in the marriage license application. Notwithstanding
 7.3 section 138.17, the educator's statement must be retained for seven years, after which
 7.4 time it may be destroyed.

7.5 ~~(d)~~ (e) If section 259.13 applies to the request for a marriage license, the local
 7.6 registrar shall grant the marriage license without the requested name change. Alternatively,
 7.7 the local registrar may delay the granting of the marriage license until the party with
 7.8 the conviction:

7.9 (1) certifies under oath that 30 days have passed since service of the notice for a
 7.10 name change upon the prosecuting authority and, if applicable, the attorney general and no
 7.11 objection has been filed under section 259.13; or

7.12 (2) provides a certified copy of the court order granting it. The parties seeking the
 7.13 marriage license shall have the right to choose to have the license granted without the
 7.14 name change or to delay its granting pending further action on the name change request.

7.15 Sec. 9. Minnesota Statutes 2008, section 517.10, is amended to read:

7.16 **517.10 CERTIFICATE; WITNESSES.**

7.17 The person solemnizing a marriage shall prepare and sign ~~three certificates thereof~~
 7.18 a certificate. ~~Each~~ The certificate shall contain the full names of the parties before and
 7.19 after marriage, the birth dates of the parties, and county and state of residences of the
 7.20 parties and the date and place of the marriage. ~~Each~~ The certificate shall also contain the
 7.21 signatures of at least two of the witnesses present at the marriage who shall be at least
 7.22 16 years of age. The person solemnizing the marriage ~~shall give each of the parties one~~
 7.23 ~~such certificate, and~~ shall immediately make a record of such marriage, and file ~~one~~ such
 7.24 certificate with the local registrar ~~of the district court~~ of the county in which the license
 7.25 was issued within five days after the ceremony. The local registrar shall record such
 7.26 certificate in ~~a book kept for that purpose~~ the county marriage records.

7.27 Sec. 10. Minnesota Statutes 2008, section 517.101, is amended to read:

7.28 **517.101 CERTIFIED COPIES OF MARRIAGE CERTIFICATE.**

7.29 Within ten days of receipt of the certificate and after recording the certificate the
 7.30 local registrar shall prepare a certified copy of the certificate to be mailed to the married
 7.31 parties. ~~The person solemnizing the marriage shall indicate at the time of filing the~~
 7.32 ~~certificate with the local registrar that the person wishes to receive a copy.~~

8.1 Sec. 11. Minnesota Statutes 2008, section 517.13, is amended to read:

8.2 **517.13 PENALTY FOR FAILURE TO ~~DELIVER AND~~ FILE CERTIFICATE.**

8.3 Every person solemnizing a marriage who neglects to ~~deliver to~~ file a certificate with
8.4 the local registrar ~~a certificate~~ within the time set forth in section 517.10 shall forfeit a
8.5 sum not exceeding \$100, and every local registrar who neglects to record a certificate
8.6 shall forfeit a like sum.