

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1803

H.P. 1284

House of Representatives, May 30, 2019

An Act To Update the Laws Regarding Death and Marriage Records

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HYMANSON of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 19-A MRSA §650, first ¶**, as enacted by PL 1997, c. 65, §2, is amended
3 to read:

4 All municipal clerks, the State Registrar of Vital Statistics and courts of this State
5 ~~shall~~ have a duty and ~~shall be~~ are legally required to construe the provisions of Maine's
6 marriage laws in accordance with the following findings and purposes:

7 **Sec. 2. 19-A MRSA §650, sub-§1, ¶A**, as enacted by PL 1997, c. 65, §2, is
8 amended to read:

9 A. The union of ~~one man and one woman~~ 2 people joined in ~~traditional~~ a
10 monogamous marriage is of inestimable value to society; the State has a compelling
11 interest to nurture and promote the unique institution of ~~traditional~~ monogamous
12 marriage in the support of harmonious families and the physical and mental health of
13 children; and ~~that~~ the State has the compelling interest in promoting the moral values
14 inherent in ~~traditional~~ a monogamous marriage.

15 **Sec. 3. 19-A MRSA §650, sub-§2, ¶¶A to C**, as enacted by PL 1997, c. 65, §2,
16 are amended to read:

17 A. To encourage ~~the traditional~~ a monogamous family unit as the basic building
18 block of our society, the foundation of harmonious and enriching family life;

19 B. To nurture, sustain and protect ~~the traditional~~ a monogamous family unit in Maine
20 society, its moral imperatives, its economic function and its unique contribution to
21 the rearing of healthy children; and

22 C. To support and strengthen ~~traditional~~ monogamous Maine families against
23 improper interference from out-of-state influences or edicts.

24 **Sec. 4. 19-A MRSA §651, sub-§1**, as amended by PL 2001, c. 574, §2, is further
25 amended to read:

26 **1. Place of recording.** Residents of the State intending to be joined in marriage
27 shall record notice of their intentions in the office of the clerk of the municipality in
28 which at least one of them resides or with the State Registrar of Vital Statistics. If only
29 one of the parties resides in the State, the parties shall record notice of their intentions in
30 the office of the clerk of the municipality in which the resident party resides or with the
31 State Registrar of Vital Statistics. If there is no clerk in the place of their residence, the
32 notice must be filed with the clerk of an adjoining municipality or with the State Registrar
33 of Vital Statistics. If both parties to a marriage reside outside the State, they must file
34 intentions in any municipal office or with the State Registrar of Vital Statistics. Once the
35 intentions are filed and the license is issued, the parties are free to marry anywhere within
36 the State.

37 **Sec. 5. 19-A MRSA §651, sub-§2**, as repealed and replaced by PL 2013, c. 424,
38 Pt. B, §5, is amended to read:

1 **2. Application.** The parties wishing to record notice of their intentions of marriage
2 shall submit an application for recording notice of their intentions of marriage. The
3 application may be issued to any 2 persons otherwise qualified under this chapter
4 regardless of the sex of each person if the clerk or State Registrar of Vital Statistics is
5 satisfied as to the identity of the applicants. The application must include a signed
6 certification that the information recorded on the application is correct and that the
7 applicant is free to marry according to the laws of this State. The applicant's signature
8 must be acknowledged before an official authorized to take oaths. An application
9 recording notice of intention to marry is not open for public inspection for 50 years from
10 the date of the application except that:

11 A. The names of the parties for whom intentions to marry are filed and the intended
12 date of marriage are public records and open for public inspection; and

13 B. A person with a researcher identification card under Title 22, section 2706,
14 subsection 8 is permitted to inspect records and may be issued a noncertified copy of
15 an application.

16 **Sec. 6. 19-A MRSA §651, sub-§§3 and 4,** as enacted by PL 1995, c. 694, Pt. B,
17 §2 and affected by Pt. E, §2, are amended to read:

18 **3. Related parties.** If the parties recording notice of their intentions to marry are
19 related as described in section 701, subsection 2, the parties shall submit to the clerk or
20 the State Registrar of Vital Statistics, at the time of recording their intentions to marry, a
21 certificate from a physician stating that the parties have received genetic counseling from
22 the physician. The physician making the certification required by this subsection shall
23 sign the certificate.

24 **4. Prior marriages.** Persons recording notice of intention to marry, either of whom
25 has been previously married, shall submit with the application a certificate or certified
26 copy of the divorce decree or annulment of the last marriage or the death record of the
27 last spouse. If both have been previously married, both shall submit the certificates or
28 certified copies. The clerk or State Registrar of Vital Statistics shall make a notation on
29 ~~the reverse side of the~~ application under subsection 2 showing the title and location of the
30 courts, the names of the parties to the proceeding for the divorces or annulments and the
31 date when the decrees became absolute. In the case of a death of a former spouse, the
32 clerk or State Registrar of Vital Statistics shall show the name of the deceased along with
33 the date and place of death.

34 **Sec. 7. 19-A MRSA §651, sub-§6,** as enacted by PL 1995, c. 694, Pt. B, §2 and
35 affected by Pt. E, §2, is amended to read:

36 **6. Resident defined.** For the purposes of this chapter, "resident" means a person
37 whose habitation is fixed in a place within this State and to which that person, whenever
38 temporarily absent, has the intention to return. A person is a resident of a municipality if
39 the place of habitation is within that particular municipality. The clerk of a municipality
40 or the State Registrar of Vital Statistics shall consider a person who qualifies as a resident
41 under Title 21-A, section 112 for voting purposes a resident for the purposes of this
42 chapter.

1 **Sec. 8. 19-A MRSA §652, sub-§1**, as amended by PL 2001, c. 574, §3, is further
2 amended to read:

3 **1. Marriage license issued.** After the filing of notice of intentions of marriage,
4 except as otherwise provided, the clerk or the State Registrar of Vital Statistics shall
5 deliver to the parties a marriage license specifying the time when the intentions were
6 recorded.

7 **Sec. 9. 19-A MRSA §652, sub-§3**, as enacted by PL 1995, c. 694, Pt. B, §2 and
8 affected by Pt. E, §2, is amended to read:

9 **3. Void after 90 days.** The license is void if not used within 90 days from the day
10 the intentions were filed in ~~the offices of the municipal clerks as specified in~~ accordance
11 with section 651.

12 **Sec. 10. 19-A MRSA §652, sub-§§6 and 7**, as enacted by PL 1995, c. 694, Pt.
13 B, §2 and affected by Pt. E, §2, are amended to read:

14 **6. Related parties.** A marriage license may not be issued to parties related as
15 described in section 701, subsection 2, unless the clerk or State Registrar of Vital
16 Statistics has received from the parties the physician's certificate of genetic counseling
17 required by section 651.

18 **7. Parties under 18 years of age.** A marriage license may not be issued to persons
19 under 18 years of age without the written consent of their parents, guardians or persons to
20 whom a court has given custody. In the absence of persons qualified to give consent, the
21 judge of probate in the county where each minor resides may grant consent after notice
22 and opportunity for hearing. ~~When 2 licenses are required and when either or both~~
23 ~~applicants for a marriage license are under the ages specified in this section, the written~~
24 ~~consent must be given for the issuance of both licenses in the presence of the clerk~~
25 ~~issuing the licenses or by acknowledgment under seal filed with that clerk.~~

26 **Sec. 11. 19-A MRSA §652, sub-§8**, as amended by PL 1997, c. 683, Pt. E, §5
27 and affected by §6, is further amended to read:

28 **8. Parties under 16 years of age.** The clerk or State Registrar of Vital Statistics
29 may not issue a marriage license to a person under 16 years of age without:

30 A. The written consent of that minor's parents, guardians or persons to whom a court
31 has given custody;

32 B. Notifying the judge of probate in the county in which the minor resides of the
33 filing of this intention; and

34 C. Receipt of that judge of probate's written consent to issue the license. The judge
35 of probate shall base a decision on whether to issue consent on the best interest of the
36 parties under 16 years of age and shall consider the age of both parties and any
37 criminal record of a party who is 18 years of age or older. The judge of probate, in
38 the interest of public welfare, may order, after notice and opportunity for hearing, that

1 a license not be issued. The judge of probate shall issue a decision within 30 days of
2 receiving the notification under paragraph B.

3 **Sec. 12. 19-A MRSA §653, sub-§§1 and 2**, as enacted by PL 1995, c. 694, Pt.
4 B, §2 and affected by Pt. E, §2, are amended to read:

5 **1. Filing; enter notice.** A person who believes that parties are about to contract
6 marriage when either of them can not lawfully do so may file a caution and the reasons
7 for the caution in the office of the clerk where notice of their intentions is required to be
8 filed or with the State Registrar of Vital Statistics. If either party applies to enter notice
9 of their intentions, the clerk or State Registrar of Vital Statistics shall withhold the license
10 until the judge of probate from the county involved approves the marriage.

11 **2. Procedure.** Before the judge of probate may approve a marriage, the court must
12 give due notice and an opportunity to be heard to all concerned parties. The judge of
13 probate shall determine whether the parties may lawfully contract marriage within 7 days
14 unless the judge of probate certifies that further time is necessary for that purpose. In that
15 case, a license must be withheld until the expiration of the certified time. The clerk or
16 State Registrar of Vital Statistics shall deliver or withhold the license in accordance with
17 the final decision of the judge of probate.

18 **Sec. 13. 19-A MRSA §654, sub-§§2 and 4**, as amended by PL 2011, c. 111, §1,
19 are further amended to read:

20 **2. Return of marriage license.** The person who solemnized the marriage shall
21 return the marriage license to the State Registrar of Vital Statistics or the clerk who
22 issued the license within 7 working days following the date on which the marriage is
23 solemnized by that person. The clerk and the State Registrar of Vital Statistics each shall
24 retain a copy of the license.

25 **4. Recorded by clerk or State Registrar of Vital Statistics.** The clerk or State
26 Registrar of Vital Statistics shall record all marriage licenses returned under this section.

27 **Sec. 14. 19-A MRSA §701, sub-§4**, as repealed and replaced by PL 2007, c. 695,
28 Pt. C, §4, is amended to read:

29 **4. Polygamy.** A marriage contracted while either party has a living ~~wife or husband~~
30 spouse from whom the party is not divorced is void.

31 **Sec. 15. 19-A MRSA §701, sub-§6** is enacted to read:

32 **6. Marriage void.** A marriage contracted when either party has failed to submit a
33 certificate or certified copy of the divorce decree or annulment of the last marriage or the
34 death record of the last spouse or when either party has intentionally lied about the
35 number of previous marriages is void.

36 **Sec. 16. 22 MRSA §2842, sub-§5** is enacted to read:

37 **5. Correction of certificate of death.** A certificate of death filed in accordance with
38 this section may be completed or amended at any time by means described in rules

1 adopted by the department. The health care provider who certified the death in
2 accordance with subsection 2-A may sign the forms, submit an electronic amendment or
3 file a certificate using the electronic death registration system in accordance with section
4 2847. A health care provider may amend a certificate of death with respect to the time,
5 date, place and circumstances of death. Forms or electronic amendments may be filed at
6 any time after death.

7

SUMMARY

8 This bill makes changes to the laws governing marriage records and the filing,
9 correction and amendment of death records, including removing language from the
10 statutes that describes marriage as the union of a man and a woman to conform with the
11 laws in the State. This bill also authorizes people to record their intentions to marry with
12 the State Registrar of Vital Statistics.