

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY BAILEY & NOYES.

CHAP. 59. said society, within the towns where such shows and exhibitions are held, from twelve o'clock at noon of the day preceding the commencement of such shows and exhibitions, and until twelve o'clock at noon of the day succeeding the termination thereof, and no longer.

TITLE FIVE.

Domestic Relations.

- CHAP. 59. Marriage and its solemnization; record of marriages, births and deaths; parents and children.
60. Divorce and dissolution of marriages.
 61. The rights of married women.
 62. Masters, apprentices and servants.

CHAPTER 59.

MARRIAGES AND ITS SOLEMNIZATION; RECORD OF MARRIAGES, BIRTHS AND DEATHS; PARENTS AND CHILDREN.

* MARRIAGE AND ITS SOLEMNIZATION.

- SEC. 1. Marriages prohibited within certain degrees of relationship.
2. White persons prohibited from intermarrying with negroes, mulattoes or indians. Insane persons and idiots incapable of contracting marriage.
 3. Bigamy prohibited.
 4. Intention of marriage to be recorded, and how book of records to be labelled, and kept open to inspection.
 5. Clerk to give certificate to parties, to be presented to magistrate before marriage begins; but none to be given to minors without written consent of parents or guardians, or to paupers. Penalty.
 6. Penalty for obtaining certificate by fraud, or marrying contrary to law.
 7. Residents going out of state for purpose of marriage, to file certificate with town clerk on return. Penalty for neglect.
 8. Caution, with reasons therefor, may be filed with clerk when unlawful marriage is supposed to be intended. In such case clerk to withhold certificate and notify person filing caution. Two justices of the peace to decide on sufficiency of reasons after notice to both parties.
 9. Marriage in another state, with intent to evade the preceding provisions, void in this state.
 10. Marriages solemnized among quakers or friends in the form heretofore practiced in their meetings valid, and not affected by foregoing provisions. Clerk of meeting to deliver a list of such marriages to the clerk of his town once a year. Penalty for neglect.

- SEC. 11. Justices of the peace, and ordained ministers and licensed preachers commissioned by the governor and council for that purpose, may solemnize marriages within certain limits.
12. Ministers and preachers to hold office during the pleasure of the executive; commission to be conclusive evidence of being minister; when commission is revoked, copy of revocation to be filed in clerk's office of county.
 13. Penalty for marrying persons in violation of the foregoing provisions.
 14. Penalty for marrying by persons not authorized.
 15. Persons authorized to solemnize marriages, to keep record and make return to town clerk each year. Penalty for neglect.
 16. Attested copy of such record to be received in all courts as evidence of marriage.
 17. Marriages valid notwithstanding informalities or want of authority on the part of the person solemnizing same, if consummated in good faith by either of the persons married.
 18. Penalty for giving false certificate of intention.
 19. Town clerk to make annual returns of marriages to clerk of court.

RECORD OF MARRIAGES, BIRTHS AND DEATHS.

- SEC. 20. Town clerk to record marriages, births and deaths, and make annual returns to secretary of state to be filed by him.
21. Assessors to ascertain births and deaths, and return to town clerk; and parents and others to notify him of births and deaths.
 22. Penalty for violating two preceding sections.

PARENTS AND CHILDREN.

- SEC. 23. Property of minor children to be applied to their support in certain cases.
24. Mother may bind illegitimate children; but her right to bind legitimate or illegitimate children, ceases at marriage.
 25. Widowed mother same right to custody and earnings of minors as father.

MARRIAGE AND ITS SOLEMNIZATION.

SEC. 1. No man shall marry his mother, grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister; and no woman shall marry her father, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's brother, or mother's brother.

Marriages prohibited within certain degrees.
R. S. c. 59, §§ 1, 2.

SEC. 2. No white person shall intermarry with a negro, indian, or mulatto; and no insane person or idiot shall be capable of contracting marriage.

Certain marriages void.
R. S. c. 59, § 3.
34 Me. 77.
46 Me. 510.

SEC. 3. All marriages, contracted while either of the parties has a former wife or husband not divorced, living, are void.

Bigamy prohibited.
R. S. c. 59, § 4.

SEC. 4. All residents of this state intending to be joined in marriage, shall cause notice of their intentions to be recorded in the office of the clerk of the town in which each resides, at least five days

Notice of intentions of marriage to be recorded, and

CHAP. 59.

how book of record to be labeled and kept open for inspection. R. S. c. 59, § 5. 1853 c. 14, § 1.

Clerk to give certificate to parties, to be presented to magistrate before marriage begins; but none to be given to minors without written consent of parents, or to paupers. Penalty. 1853, c. 14, §§ 2, 3.

Penalty for obtaining certificate by fraud, or marrying contrary to law. 1853, c. 14, § 5.

Certificate of marriage out of the state, to be filed. Penalty for neglect. R. S. c. 59, § 7.

Proceedings when marriage is forbidden. R. S. c. 59, § 8.

Marriage in another state in evasion of the first three sections, void

before a certificate of such intentions is granted; and the book in which said record is made, shall be labelled on the outside of the cover, with the words "record of intentions of marriage," and be kept open to public inspection in the office of the clerk; and if there is no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SEC. 5. The clerk shall deliver to the parties a certificate specifying the time such intentions were entered with him; and it shall be delivered to the minister or magistrate before he begins to solemnize the marriage; but no such certificate shall be issued to a male under twenty-one, or a female under eighteen years of age, without the written consent of their parents or guardians first presented, if they have any living in this state; nor to a town pauper when the overseers of a town deposit a list of their paupers with the clerk; and for any intentional violation of the foregoing prohibitions; or for falsely stating the residence of either party named in such certificate, such clerk shall be fined twenty dollars.

SEC. 6. Whoever contracts a marriage, or makes false representations to procure such certificate or the solemnization of marriage contrary to the provisions of this chapter, shall be fined one hundred dollars.

SEC. 7. When residents of this state go into another state for the purpose of marriage, and it is there solemnized, and they return to dwell here, they shall file a certificate or declaration of their marriage with the clerk of the town, in which each of them then lived, within seven days after their return, under a penalty of ten dollars, to be recovered by any person suing therefor, one-half to his own use and the other half to the use of the town where the forfeiture is incurred.

SEC. 8. Any person believing that parties are about to contract matrimony, when either of them cannot lawfully do so, may file a caution and the reasons therefor, in the office of the clerk where notice of their intentions should be filed. Then if either party applies to the clerk to enter such notice, he shall withhold the certificate, and notify the person filing the caution, who shall, within seven days thereafter, unless the justices certify that a longer time is necessary, procure the decision of two justices of the peace, after notice to both parties, upon the sufficiency of such reasons, which shall be duly certified to said clerk, and he shall deliver or withhold the certificate accordingly. If the decision is against the sufficiency, the justices shall enter judgment against the applicant for costs, and issue execution therefor.

SEC. 9. When residents of this state, with intent to evade the provisions of sections one, two and three of this chapter, and to return and reside here, go into another state or country, and there

have their marriage solemnized, and afterwards return and reside here, such marriage shall be void in this state. CHAP. 59.
here.
1838, c. 14, § 4.

SEC. 10. All marriages solemnized, among the quakers or friends, in the form heretofore practiced in their meeting, shall be valid, and not affected by the foregoing provisions; and the clerk or the keeper of the records of the meeting, in which they are solemnized, shall once every year deliver a list thereof to the clerk of his town, on penalty of forfeiting fifty dollars, one half to the use of the county, and the other to the use of the prosecutor. Marriage among quakers.
R. S. c. 59, § 10.

SEC. 11. Every justice of the peace appointed for a county or for the state and residing therein; and every ordained minister of the gospel, and every person licensed to preach by an association of ministers, religious seminary, or ecclesiastical body, duly appointed and commissioned for that purpose by the governor and council, may solemnize marriages within the limits of their appointment. Who may solemnize marriages.
R. S. c. 59, § 11.
18 Me. 308.
42 Me. 287.

SEC. 12. Such ordained or licensed minister shall hold his office during the pleasure of the executive; and the commission shall be conclusive evidence that he is an ordained or licensed minister, and when the commission is revoked, a copy of the revocation shall be filed in the clerk's office of said county. Tenure of office of ministers.
R. S. c. 59, § 12.
42 Me. 287.

SEC. 13. If any person commissioned as aforesaid, knowingly and willfully joins persons in marriage contrary to the provisions of this chapter, he shall forfeit the sum of one hundred dollars, two-thirds thereof to the use of the county where the offence is committed, and the other to the prosecutor, to be recovered by the county treasurer, or by the parent, guardian, or other person under whose immediate care and government either of the parties was at the time of such marriage; and is forbidden from joining any persons in marriage after such recovery. Penalty for marrying persons in violation of these provisions.
R. S. c. 59, § 13.

SEC. 14. If any person thus forbidden, or any minister or other person not authorized to solemnize marriages, joins any persons in marriage, he shall be punished by confinement to hard labor in the state prison for a term not more than five years, or by fine not exceeding one thousand dollars. Penalty for marrying by persons not authorized.
R. S. c. 59, § 14.

SEC. 15. Every person, commissioned as aforesaid, shall keep a record of all marriages solemnized by him, and, annually by the fifteenth of April, make return thereof for the year ending the last day of March, to the clerk of the town where the marriage is solemnized, certifying the names of the parties, the places of their residence and the date of the marriage; and for any neglect to do so, he shall forfeit the sum of fifty dollars, one-half to the use of the county, and the other to the use of the person suing therefor. Persons so authorized, to keep a record and make return.
R. S. c. 59, § 15.
1865, c. 335, § 3.

SEC. 16. A copy of a record so made and kept, attested or sworn to by a justice of the peace, commissioned minister, or town clerk, shall be received in all courts as evidence of the fact of marriage. Copies of such, to be legal evidence.
R. S. c. 59, § 16.
19 Me. 155.

CHAP. 59.

Marrriages to be valid, if in good faith, though not according to the forms of law. R. S. c. 59, § 17, 6 Me. 148, 36 Me. 448.

Penalty for false certificate of intention. R. S. c. 59, § 18.

Town clerk to make annual return of marriages to clerk of court. R. S. c. 59, § 19.

SEC. 17. No marriage, solemnized before any known inhabitant of this state professing to be a justice of the peace, or an ordained or licensed minister of the gospel duly appointed and commissioned, shall be void, nor shall its validity be affected by any want of jurisdiction or authority in the justice or minister, or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful, and consummated with a full belief, on the part of either of the persons married, that they are lawfully married.

SEC. 18. If any town clerk makes out and delivers to any person a false certificate of the entry of the intention of matrimony, knowing it to be false in any particular, he shall be fined one hundred dollars or imprisoned six months in the county jail.

SEC. 19. The clerk of every town shall return to the clerk of the judicial courts for his county, a transcript of all the records of marriages made upon his books during the year for which he was a clerk; and said clerk of the courts shall record the same in a book to be kept for that purpose; and be allowed therefor from the county treasury at the rate of twelve cents a page.

RECORD OF MARRIAGES, BIRTHS AND DEATHS.

Town clerk to record marriages, births, and deaths, and make annual returns to secretary of state, to be filed by him. 1865, c. 335, §§ 1, 2.

R. S. c. 59, § 20. Assessors to ascertain births and deaths, and return to town clerk; and parents and others to notify him of births and deaths.

R. S. c. 59, § 21. 1865, c. 335, § 4. Penalty for violating two preceding sections. R. S. c. 59, § 22. 1865, c. 335, § 5.

SEC. 20. The clerk of every town shall record in a book kept for that purpose the marriages, births and deaths occurring therein; and by the second Monday of May annually, shall make certified returns thereof to the secretary of state for the year ending the last day of March; and the latter shall receive and file them in his office.

SEC. 21. The assessors, while taking the inventory of the polls and estates annually, shall ascertain by inquiry the births and deaths during the year ending the last day of March, and make return thereof to the town clerk by the last day of April; and parents, householders, masters of workhouses, alms houses, prisons, and vessels, shall give notice to the clerk of their town of the births and deaths which take place in their families, houses, or vessels, and the elder person next of kin shall give notice of the death of his kindred.

SEC. 22. Whoever neglects to perform the duties required of him in the two preceding sections, forfeits not exceeding ten dollars for each offence, to be recovered by complaint, half to the town and half to the prosecutor.

PARENTS AND CHILDREN.

Property of minor children to be applied to their support in certain cases. R. S. c. 59, § 23. 23 Me. 569.

SEC. 23. If any minor, having a father alive, has property sufficient for his maintenance and education in a manner more expensive than his father can reasonably afford, regard being had to the situation of his father's family and to all the circumstances of the case, the expenses of his maintenance and education may be defrayed out of his own property, in whole or in part, and the charges therefor allowed accordingly in the settlement of the guardian's account.

SEC. 24. The mother of an illegitimate child may bind him during minority; but her right to bind legitimate or illegitimate children ceases at her subsequent marriage, and cannot be exercised by her or her husband while it continues.

SEC. 25. Widowed mothers have the same right to the custody and earnings of minor children without guardians, as a father has.

CHAP. 60.
Mother may bind illegitimate child; her right to bind legitimate or illegitimate children ceases at marriage. R. S. c. 59, §§ 25, 26. Widowed mothers, same right to custody and earnings of minors as fathers. 1868, c. 203.

CHAPTER 60.

DIVORCE AND ANNULLING OF MARRIAGES.

WHAT MARRIAGES VOID WITHOUT PROCESS.

SEC. 1. Certain marriages void without process.

DIVORCE FROM BONDS OF MATRIMONY.

SEC. 2. In what cases divorces may be granted; either party a witness, and when divorced may marry again.

3. Court shall grant divorce for three years desertion, and may for less.
4. Libel may be filed with clerk of courts or inserted in writ of attachment, and served by summons and copy. Court or judge may order notice.
5. To be tried by a jury when either party requests or court orders.
6. Pending libel, court may order husband to pay for wife's defence or prosecution thereof, and provide for her support. Care of minor children.
7. Dower, alimony, and other provisions for wife in case of divorce.
8. Provisions for husband in case of divorce for adultery of wife. Exceptions.
9. New trial may be had within three years, except in certain cases.
10. Divorce decreed out of the state, when void and when valid.
11. Issue not debarred from inheriting, by divorce.

DIVORCE FROM BED AND BOARD.

SEC. 12. Causes of divorce from bed and board. Libel, how filed.

13. Provisions for the wife from the husband's estate. Court to allow alimony.

ANNULLING ILLEGAL MARRIAGES.

SEC. 14. Illegal marriages, how annulled.

15. Issue, when legitimate, and when not, after divorce.
16. Issue of second marriage, when legitimate.

GENERAL PROVISIONS.

SEC. 17. Court may free wife from restraint pending a libel.

18. Both parties guilty of adultery, or collusion, divorce not to be granted.
19. Disposal of minor children on divorce, and compulsory powers of court.

WHAT MARRIAGES VOID WITHOUT PROCESS.

SEC. 1. All marriages prohibited by law as specified in sections one, two, and three, of chapter fifty-nine, if solemnized in this state, are absolutely void; and the sentence of either party to imprisonment for life and confinement under it, dissolve the bonds of matrimony, without any legal process in either case.

Certain marriages void without process. R. S. c. 60, § 1. 31 Me. 342, 490, 493. 32 Me. 589.