

MAINE STATE LEGISLATURE

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TITLE 19

DOMESTIC RELATIONS

Chap.	Sec.
1. Marriage	1
3. Rights of Married Persons	161
5. Parents and Children	211
7. Desertion and Nonsupport	301
9. Adoption	531
11. Judicial Separation	581
13. Divorce and Annulment	631
15. Change of Name	781

CHAPTER 1

MARRIAGE

Subch.	Sec.
I. General Provisions	1
II. Void Marriages	31
III. Proceedings	61
IV. Restrictions	91
V. Persons Officiating	121

SUBCHAPTER I

GENERAL PROVISIONS

- Sec.
1. Quaker marriages.
 2. Copy of record, legal evidence.
 3. Penalties.

§ 1. Quaker marriages

Marriages solemnized among Quakers or Friends, in the form heretofore practiced in their meeting, are valid and not affected by subchapters II to IV. The clerk or the keeper of the records of the meeting in which they are solemnized shall make return thereof as provided in Title 22, section 2802. Any person who willfully neglects or refuses to perform the duty imposed upon him by this section shall be punished by a fine of not

more than \$100 for each offense, for the use of the town in which the offense occurred.

R.S.1954, c. 166, § 10.

§ 2. Copy of record, legal evidence

A copy of a record of marriage duly made and kept, and 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

R.S.1954, c. 166, § 12.

§ 3. Penalties

Whoever knowingly and willfully joins persons in marriage contrary to this chapter shall be punished by a fine of \$100. Such offender is forbidden to join any persons in marriage thereafter.

If any person thus forbidden, or any minister or other person not authorized to solemnize marriages, joins any person in marriage, he shall be punished by a fine of not more than \$1,000 or shall be confined to hard labor in the State Prison for not more than 5 years.

A town clerk who makes out and delivers to any person a false certificate of the entry of the intention of marriage, knowing it to be false in any particular, shall be punished by a fine of \$100 or by imprisonment for 6 months.

R.S.1954, c. 166, § 14.

SUBCHAPTER II

VOID MARRIAGES

Sec.

31. Marriages prohibited within certain degrees.
32. Persons under disability.
33. Polygamy.

§ 31. Marriages prohibited within certain degrees

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. 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.

R.S.1954, c. 166, § 1.

§ 32. Persons under disability

No mentally ill or feeble-minded person or idiot is capable of contracting marriage.

R.S.1954, c. 166, § 2; 1959, c. 242, § 8.

§ 33. Polygamy

Marriages, contracted while either of the parties has a former wife or husband not divorced, living, are void.

R.S.1954, c. 166, § 3.

SUBCHAPTER III

PROCEEDINGS

Sec.

61. Recording of intentions.
62. Certificate.
63. —Contents.
64. —Out-of-state marriages.

§ 61. Recording of intentions

Residents of the 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 5 days before a certificate of such intentions is granted. If one only of the parties resides in the State, they shall cause notice of their intentions to be recorded in the office of the clerk of the town in which such party resides, at least 5 days before such certificate is granted. 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. If both parties reside out of the State they shall cause notice of their intentions to be recorded in the office of the clerk of the town in which such parties propose to have the marriage solemnized, at least 5 days before such certificate is granted. The book in which such record is made shall be labeled on the out-

side of its cover, "Record of Intentions of Marriage," and be kept open to public inspection in the office of the clerk.

Upon application by both of the parties to an intended marriage, when both parties are residents of this State or both parties are nonresidents, or upon application of the party residing within the State when one of the parties is a resident and the other a nonresident, a judge of probate or a Judge of the District Court may, after hearing such evidence as is presented, grant a certificate stating that in his opinion it is expedient that the intended marriage be solemnized without delay. Upon the presentation of such a certificate or a copy thereof certified by the clerk of the court by which the certificate was issued, or in extraordinary or emergency cases when the death of either party is imminent, upon the authoritative request of a minister, clergyman, priest, rabbi or attending physician, the clerk or registrar of the city or town in which the intention to be joined in marriage has been filed shall at once issue the certificate as prescribed in this section.

The 5 days' notice required by this section shall not apply to cases in which either of the parties to an intended marriage has arrived as an immigrant from a foreign country within 5 days.

R.S.1954, c. 166, § 4; 1963, c. 402, § 267.

§ 62. Certificate

On and after the 5th day from the filing of notice of intentions of marriage, except as otherwise provided, the clerk shall deliver to the parties a certificate specifying the time when such intentions were entered with him. It shall be delivered to the minister or magistrate before he begins to solemnize the marriage, which shall be performed in the presence of at least 2 witnesses besides the clergyman or magistrate officiating. No such certificate shall be issued to a male under 21 or to a female under 18 years of age, without the written consent of their parents, guardians or persons to whom a court has given custody of such minors first presented, if they have any living. In the absence of persons qualified to give consent, the judge of probate in the county where such minors reside may, after notice and hearing, grant consent. When 2 licenses are required and when either or both applicants for a marriage license are under the ages specified in this section, the written consent shall be given for the issuance of both licenses and such written consent shall be given in the presence of the clerk issuing the license or by acknowledgment under seal filed with such clerk. No certificate

shall be issued to a male or female under 16 years of age without the written consent of their parents, guardians or persons to whom a court has given custody of such minors first presented, if they have any living, and without said clerk having notified in writing the judge of probate in the county in which they reside of the filing of such intentions, who may in the interest of public welfare order that no such certificate shall be issued, nor to a state, city or town pauper, when the overseers of such town where the pauper resides deposit a list of their state, city or town paupers with the clerk. Such certificate is void if not used within one year after the date of issuance. Whoever contracts a marriage or makes false representations to procure the certificate provided for above or the solemnization of marriage contrary to this chapter shall forfeit \$100. The clerk of any town or his deputy who intentionally violates this section or falsely states the residence of either party named in the certificate shall forfeit \$20 for each offense.

R.S.1954, c. 166, § 5.

§ 63. —Contents

All such certificates shall have conspicuously printed thereon the following words: "The laws of Maine provide that a fine of not more than \$1,000 or imprisonment for not more than 5 years shall be the punishment of any clergyman or other person who shall solemnize a marriage within this State unless authorized to solemnize marriages therein." Following the above words, said certificate shall contain the blank form for the return to the clerk with a space for the entry of the date of the commission or license issued to the person solemnizing such marriage.

R.S.1954, c. 166, § 6.

§ 64. —Out-of-state marriages

When residents of this State go outside of the State for the purpose of marriage, and it is there solemnized, and they return to dwell here, they shall, on the blank prepared by the state registrar for that purpose, fill out and file a certificate of their marriage with the clerk of the town in which each of them lived, within 7 days after their return. The clerk shall then record such marriage and make a return of it to the State Registrar of Vital Statistics. Any person who fails to make the report of his marriage as above provided shall forfeit \$20, $\frac{1}{2}$ to the prosecutor and $\frac{1}{2}$ to the town where the forfeit is incurred.

R.S.1954, c. 166, § 7.

SUBCHAPTER IV

RESTRICTIONS

Sec.

- 91. Marriage out of State to evade law.
- 92. Filing of cautions.

§ 91. Marriage out of State to evade law

When residents of this State, with intent to evade subchapter II 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 is void in this State.

R.S.1954, c. 166, § 9.

§ 92. Filing of cautions

Any person, believing that parties are about to contract marriage 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 enter such notice, the clerk shall withhold the certificate until a decision is made by 2 justices of the peace, approving the marriage, after due notice to and hearing all concerned, provided the person filing the caution shall within 7 days thereafter procure the decision of such justices, unless they certify that further time is necessary for the purpose. In such case a certificate shall be withheld until the expiration of the certified time. He shall, finally, deliver or withhold the certificate in accordance with the final decision of said justices. If the decision is against the sufficiency, the justices shall enter judgment against the applicant for costs, and issue execution therefor.

R.S.1954, c. 166, § 8.

SUBCHAPTER V

PERSONS OFFICIATING

Sec.

- 121. Authorization; license.
- 122. Lack of jurisdiction or authority.

§ 121. Authorization; license

Every justice of the peace and every notary public residing in this State may solemnize marriages therein. Every ordained

minister of the gospel, clergyman engaged in the service of the religious body to which he belongs or person licensed to preach by an association of ministers, religious seminary or ecclesiastical body, whether a resident or nonresident of this State, and of either sex, may solemnize marriages therein after being licensed for that purpose, upon application duly filed with the Secretary of State. Such application shall be made upon blanks furnished by the Secretary of State, which shall be signed by the applicant and set forth the necessary facts in the premises, which facts shall be certified to by the clerk, treasurer or any of the municipal officers of the town wherein the applicant resides or wherein the ceremony is to be performed. Upon receipt of such application, the Secretary of State shall issue to the applicant a license under the seal of the State to the effect that he is authorized to solemnize marriages in this State. Such license or a certified copy thereof shall be received as evidence in all courts of his authority in the premises, and a copy of the record of any marriage solemnized by such licensee, duly made and kept, and attested or sworn to by the clerk of the town in which the marriage intention was recorded or in which the marriage was solemnized, shall be received in all courts as evidence of the fact of marriage. In the event the applicant shall cease to be an ordained minister of the gospel, a clergyman engaged in the service of the religious body to which he belongs or a person licensed to preach by an association of ministers, religious seminary or ecclesiastical body, or a resident of the State, such license shall thereupon terminate and within 10 days thereafter the applicant shall notify the Secretary of State to this effect and thereupon the Secretary of State shall revoke such license. Such license may be revoked by the Governor for cause, after notice and an opportunity to be heard thereon. If any person willfully neglects or refuses to perform any duty imposed upon him by this section, he shall be punished by a fine of not more than \$100 for each offense, for the use of the town in which the offense occurred, and the State Registrar of Vital Statistics shall enforce this section as far as it comes within his power and shall notify the county attorney of the county in which said penalty should be enforced of the facts that have come to his knowledge, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons.

R.S.1954, c. 166, § 11.

§ 122. Lack of jurisdiction or authority

No marriage, solemnized before any known inhabitant of the State professing to be a justice of the peace or an ordained or licensed minister of the gospel duly appointed and commissioned, is void, nor is its validity 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.

R.S.1954, c. 166, § 13.