

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 925

H.P. 676

House of Representatives, March 27, 1989

Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script, appearing to read 'Ed Pert'.

EDWIN H. PERT, Clerk

Presented by Representative ANTHONY of South Portland.

Cosponsored by Representative REED of Falmouth and Senator CAHILL of Sagadahoc.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Clarify the Laws Relating to Marriage.



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

3 **Sec. 1. 4 MRSA §954-A**, as enacted by PL 1987, c. 573, §1, is
5 amended to read:

7 **§954-A. Conflict of interest if notary related**

9 A notary public shall not perform any notarial act for any
11 person if that person is the notary public's spouse, parent,
13 sibling, child, spouse's parent or child's spouse, except that a
15 notary public may solemnize the marriage of the notary public's
17 parent, sibling, child or spouse's parent. This section does not
19 affect or apply to notarial acts performed before the effective
21 date of this section.

23 **Sec. 2. 19 MRSA §61, first ¶**, as amended by PL 1983, c. 686, §1,
25 is further amended to read:

27 Residents of the State intending to be joined in marriage
29 shall cause notice of their intentions to be recorded in the
31 office of the clerk of the town in which each resides, at least 3
33 days before a ~~certificate of such intentions~~ marriage license is
35 granted issued. If one only of the parties resides in the State,
37 they the parties shall cause notice of their intentions to be
41 recorded in the office of the clerk of the town in which sueh the
43 resident party resides, at least 3 days before sueh-certificate
45 the license is granted. If there is no sueh clerk in the place of
47 their residence, the like entry shall be made with the clerk of
49 an adjoining town. If both parties reside out of the State, they
51 shall cause notice of their intentions to be recorded in the
office of the clerk of the town in which sueh the parties propose
to have the marriage solemnized, at least 3 days before sueh
certificate the license is granted issued. ~~The book in which such~~
~~the record is made shall be labeled on the outside of its cover,~~
~~"Record of Intentions of Marriage," and be kept open to public~~
~~inspection in the office of the clerk.~~

53 **Sec. 3. 19 MRSA §61**, as amended by PL 1987, c. 126, §2, is
55 further amended by adding after the first paragraph a new
57 paragraph to read:

59 The parties wishing to cause notice of their intentions of
61 marriage shall submit an application for recording notice of
63 their intentions of marriage. The application shall include a
65 signed certification that the information recorded on the
67 application is correct and that the applicant is free to marry
69 according to the laws of this State. The applicant's signature
71 shall be acknowledged before an official authorized to take
oaths. Applications recording notice of intentions to marry
shall be open for public inspection in the office of the clerk.

1 **Sec. 4. 19 MRSA §62**, as amended by PL 1987, c. 126, §3, is
repealed and the following enacted in its place:

3
5 **§62. Marriage license**

7 **1. Marriage license issued.** On and after the 3rd day from
the filing of notice of intentions of marriage, except as
otherwise provided, the clerk shall deliver to the parties a
marriage license specifying the time when the intentions were
recorded. The license is void if not used within 90 days from the
day the intentions are filed in the offices of the municipal
clerks as specified in section 61.

13 **2. Ceremony performed.** Each marriage license issued shall
be completed and the certification statement signed by both
parties to the intended marriage. The completed license or
licenses shall be delivered to the person solemnizing the
marriage. Upon completion of the solemnization, which shall be
performed in the presence of at least 2 witnesses other than the
person officiating, the person officiating and the 2 witnesses
shall sign the license or licenses, which, from then on, shall be
known as the marriage certificate or certificates.

23 **3. Related parties.** No marriage license may be issued to
parties related as described in section 31, subsection 2, unless
the clerk has received from the parties the physician's
certificate of genetic counseling required by section 61.

29 **4. Parties under 18 years of age.** No marriage license may
be issued to persons under 18 years of age without the written
consent of their parents, guardians or persons to whom a court
has given custody. In the absence of persons qualified to give
consent, the Judge of Probate in the county where the minors
reside may grant consent, after notice and hearing. 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 in the presence of the clerk issuing the licenses or by
acknowledgment under seal filed with that clerk.

41 **5. Parties under 16 years of age.** No marriage license may
be issued to a person under 16 years of age without the written
consent of that minor's parents, guardians or persons to whom a
court has given custody and without the municipal clerk having
notified the Judge of Probate in the county in which the minor
resides of the filing of these intentions, having received in
writing the consent from the judge to issue the license. If no
written consent from the judge has been received by the 10th day
from the filing of notice of intentions of marriage, consent
shall be deemed to have been received, and the clerk shall issue
the license. The Judge of Probate, in the interest of public
welfare, may order that no license be issued.

1
3 6. Penalties. Whoever contracts a marriage or makes false
5 representations to procure the license provided for in this
7 section, or the solemnization of marriage in violation of this
9 chapter, shall forfeit \$100. The clerk of any town or the clerk's
11 deputy who intentionally violates this section or falsely states
13 the residence of either party named in the certificate shall
15 forfeit \$20 for each offense.

17 **Sec. 5.19 MRSA §121**, as amended by PL 1987, c. 736, §38, is
19 further amended to read:

21 **§121. Authorization; license**

23 Every justice, judge, lawyer admitted to the Maine Bar,
25 justice of the peace or notary public under Title 4, chapter 19,
27 residing in this State may solemnize marriages in this State.
29 Every ordained minister of the gospel, ~~clergyman~~ cleric engaged
31 in the service of the religious body to which he ~~the cleric~~
33 belongs or person licensed to preach by an association of
35 ministers, religious seminary or ecclesiastical body, whether a
37 resident or nonresident of this State and whether or not a
39 citizen of the United States, and of either sex, may solemnize
41 marriages. A copy of the record of any marriage solemnized under
43 the provisions of this section, duly made and kept, and attested
45 or sworn to by the clerk of the town in which the marriage
47 intention was recorded or in which the marriage was solemnized,
49 shall be received in all courts as evidence of the fact of
51 marriage. Notwithstanding Title 17-A, section 4-A, any person who
violates 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, and the State Registrar of Vital Statistics
shall enforce this section as far as it comes within his ~~the~~
state registrar's power and shall notify the district attorney of
the county in which the penalty should be enforced of the facts
that have come to his ~~the state registrar's~~ knowledge, and, upon
receipt of the notice, the district attorney shall prosecute the
defaulting person or persons.

53 **Sec. 6.22 MRSA §2702, sub-§2**, as amended by PL 1975, c. 443,
55 is further amended to read:

57 **2. Transmittal of certificates to state registrar.** Between
59 the 10th and 15th days of each month, the clerk of each
61 municipality in this State shall transmit to the state registrar
each original certificate of live birth, death and fetal death,
and ~~a certified~~ received by the clerk under this Title during the
previous calendar month. Each clerk shall transmit the state
copy of each original certificate of marriage issued by the
clerk to the bride and returned to him ~~the clerk~~ under this
Title during the previous calendar month next-previous. However,
the clerk in any municipality with a population over 25,000 shall

1 transmit this information to the state registrar no later than
the 25th day of each month. If a municipal clerk has received no
3 original certificates during said the month for which
certificates or records are to be transmitted, he the clerk shall
5 notify the state registrar that he has there are no certificates
licenses or records to transmit.

7
8 **Sec. 7. 22 MRSA §2802**, as amended by PL 1983, c. 480, Pt. A,
9 sub-pt. 3, §31, is further amended to read:

11 **§2802. Copy of record of marriages**

13 Every person authorized to unite persons in marriage shall
make and keep a record of every marriage solemnized by him that
15 person in conformity with the forms and instructions prescribed
by the State Registrar of Vital Statistics. That person shall
17 return each original certificate or certificates to the clerk who
issued the same within 7 working days following the date on which
19 a marriage is solemnized by him that person. If the marriage was
solemnized in a town other than the place or places where the
21 parties to the marriage reside, that person shall return a copy
of the certificate, or of either certificate if 2 were issued, to
23 the clerk of the town where the marriage was solemnized. Each
certificate and copy so returned shall contain a statement giving
25 the names of the parties united in marriage, place and date of
the marriage, the signature of the person by whom the same was
27 solemnized and the names of the 2 witnesses. The person who
solemnized the marriage shall add the title of the office by
29 virtue of which marriage was solemnized and the date ordained or
authorized by a religious faith to perform marriages, the date a
31 notary public's commission expires or the date a lawyer was
admitted to the Maine Bar and his the residence of the person who
33 solemnized the marriage. All certificates or copies so returned
shall be recorded by the clerk receiving them.

35
37 **STATEMENT OF FACT**

39 This bill amends the Maine Revised Statutes, Title 4,
41 section 954-A, Title 19, sections 61 and 62 and Title 22,
sections 2702 and 2802 to provide that:

43 1. Applications for marriage licenses shall contain a
45 certified statement by each party that that party is free to
marry; and

47 2. Both parties shall complete and sign each license, if
49 more than one has been issued, before the solemnization ceremony
is performed.

51

1 The bill also simplifies procedures by amending Title 22,
3 section 2702, subsection 2 to require that only the town which
5 issued the marriage license to the bride need transmit the state
7 copy to the Department of Human Services, Office of Vital
 Statistics. Certified copies would continue to be issued by any
 of the towns having a record on file.

9 The bill amends Title 19, section 121 to clearly specify
11 that Maine lawyers may solemnize marriages, as indicated in Title
13 22, section 2802, and it amends Title 19, section 62 to clarify
 the restrictions and requirements contained in that section.
 Finally, the bill amends Title 4, section 954-A to authorize
 notaries public to solemnize marriages of relatives.