

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions

§ § 106

(a) A clergyperson or minister of any religion, current and former Judges of this State's Supreme Court, Superior Court, Family Court, Court of Chancery, Court of Common Pleas, Justice of the Peace Court, federal Judges, federal Magistrates, clerks of the peace of various counties and current and former judges from other jurisdictions with written authorization by the clerk of the peace from the county in Delaware where the ceremony is to be performed may solemnize marriages between persons who may lawfully enter into the matrimonial relation. The Clerk of the Peace in each county for good cause being shown may: (1) Allow by written permit within that Clerk's respective county, any duly sworn member of another state's judiciary, to solemnize marriages in the State between persons who may lawfully enter into the matrimonial relation. (2) Allow by written permit within that Clerk's respective county, the Clerk of the Peace from another county within the State to solemnize marriages in the State between persons who may lawfully enter into the matrimonial relation. Within the limits of any incorporated municipality, the Mayor thereof may solemnize marriages between persons who may lawfully enter into matrimonial relation. Marriages shall be solemnized in the presence of at least 2 reputable witnesses who shall sign the certificate of marriage as prescribed by this chapter. Marriages may also be solemnized or contracted according to the forms and usages of any religious society. No marriage shall be solemnized or contracted without the production of a license issued pursuant to this chapter. (b) For purposes of this section, the words "resident of this State" shall include the son or daughter of a person who has been domiciled within the State for 1 year or more, notwithstanding the actual place of residence of the son or daughter immediately prior to the date of the marriage. (c) In the case of absence or disability of the duly elected Clerk of the Peace, the chief deputy or, if there is no chief deputy, a deputy employed in the office of the Clerk of the Peace, shall be authorized to solemnize marriages. (d) Whoever, not being authorized by this section, solemnizes a marriage, shall be fined \$100, and in default of the payment of such fine shall be imprisoned not more than 30 days, and such marriage shall be void, unless it is in other respects lawful and is consummated with the full belief of either of the parties in its validity.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions

§ § 112

Any clerk of the peace or deputy of such who knowingly or willfully acts in violation of this chapter shall be fined \$100, and in default of payment of such fine shall be imprisoned not more than 30 days.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions

§ § 106

(a) A clergyperson or minister of any religion, current and former Judges of this State's Supreme Court, Superior Court, Family Court, Court of Chancery, Court of Common Pleas, Justice of the Peace Court, federal Judges, federal Magistrates, clerks of the peace of various counties and current and former judges from other jurisdictions with written authorization by the clerk of the peace from the county in Delaware where the ceremony is to be performed may solemnize marriages between persons who may lawfully enter into the matrimonial relation. The Clerk of the Peace in each county for good cause being shown may: (1) Allow by written permit within that Clerk's respective county, any duly sworn member of another state's judiciary, to solemnize marriages in the State between persons who may lawfully enter into the matrimonial relation. (2) Allow by written permit within that Clerk's respective county, the Clerk of the Peace from another county within the State to solemnize marriages in the State between persons who may lawfully enter into the matrimonial relation. Within the limits of any incorporated municipality, the Mayor thereof may solemnize marriages between persons who may lawfully enter into matrimonial relation. Marriages shall be solemnized in the presence of at least 2 reputable witnesses who shall sign the certificate of marriage as prescribed by this chapter. Marriages may also be solemnized or contracted according to the forms and usages of any religious society. No marriage shall be solemnized or contracted without the production of a license issued pursuant to this chapter. (b) For purposes of this section, the words "resident of this State" shall include the son or daughter of a person who has been domiciled within the State for 1 year or more, notwithstanding the actual place of residence of the son or daughter immediately prior to the date of the marriage. (c) In the case of absence or disability of the duly elected Clerk of the Peace, the chief deputy or, if there is no chief deputy, a deputy employed in the office of the Clerk of the Peace, shall be authorized to solemnize marriages. (d) Whoever, not being authorized by this section, solemnizes a marriage, shall be fined \$100, and in default of the payment of such fine shall be imprisoned not more than 30 days, and such marriage shall be void, unless it is in other respects lawful and is consummated with the full belief of either of the parties in its validity.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions

§ § 127

If any person applying for a license under this chapter knowingly makes false answers to any of the inquiries of the person issuing the license, after having been sworn or affirmed to answer truly, said

person shall be guilty of perjury, and if any person executing papers under this chapter executes them falsely, said person shall be subject to such penalties as the court may impose.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 101

(a) A marriage is prohibited and void between a person and his or her ancestor, descendant, brother, sister, half brother, half sister, uncle, aunt, niece, nephew, first cousin or between persons of the same gender. (b) A marriage is prohibited, and is void from the time its nullity is declared by a court of competent jurisdiction at the instance of the innocent party, if either party thereto is: (1)-(5) [Repealed.] (6) Divorced, unless a certified copy of the divorce decree (last decree if such person has been divorced more than once) or a certificate of such divorce from the clerk of the court granting the divorce is inspected by the clerk of the peace to whom such person makes application for a marriage license, and unless such person may in other respects lawfully marry; and, if such decree or certificate cannot be obtained, the Resident Judge of the county where such license is desired or the person designated by the Resident Judge to grant such certificates as may be accepted under this paragraph may grant a certificate of the facts as stated by the applicant and the certificate may, for the purposes of this chapter, be accepted in lieu of a certified copy of a divorce decree; (7) On probation or parole from any court or institution, unless such person first files with the clerk of the peace to whom such person makes application for a marriage license a written consent to such person's proposed marriage from the chief officer of such court or institution or from someone who is appointed by such officer to give such consent, and unless in other respects the applicant may lawfully marry. (c) [Repealed.] (d) A marriage obtained or recognized outside the State between persons prohibited by subsection (a) of this section shall not constitute a legal or valid marriage within the State.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 102

The guilty party or parties to a marriage prohibited by § 101 of this title shall be fined \$100, and in default of the payment of the fine shall be imprisoned not more than 30 days.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 103

Whoever, being authorized to issue a marriage license, knowingly or wilfully issues a license for a marriage prohibited by this chapter or, being authorized to solemnize a marriage, knowingly or wilfully

assists in the contracting or solemnizing of a prohibited marriage, shall be fined \$100, and in default of the payment of such fine shall be imprisoned not more than 30 days.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 104

If a marriage prohibited by this chapter is contracted or solemnized outside of the State, when the legal residence of either party to the marriage is in this State, and the parties thereto shall afterwards live and cohabit as spouses within the State, they shall be punished in the same manner as though the marriage had been contracted in this State.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 105

Children of void or voidable marriages shall be deemed to be legitimate.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 107

(a) Persons intending to be married within this State shall obtain a marriage license at least 24 hours prior to the time of the ceremony. (b) The license must be delivered to the person who is to officiate before the marriage can be lawfully performed. If the marriage is to be performed by or before any religious society, the license shall be delivered to the religious society or any officer thereof who is duly qualified according to § 106 of this title. (c) A marriage license issued pursuant to this chapter shall entitle the parties thereto, subject to the other provisions of this chapter, to marry within 30 days from the date of its issuance. In the event the marriage ceremony is not performed within 30 days, said license shall be void and the parties must reapply to the appropriate issuing officer for another license to marry. No refund or rebate shall be given for the unused license, nor shall said license be reinstated or postdated. The procedure to secure another license shall be the same as that provided for the initial application. (d) The Clerk of the Peace in each county for good cause being shown may: (1) Shorten the time periods specified in subsection (a) of this section; or (2) Lengthen the time period specified in subsection (c) of this section not to exceed 180 days.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 108

Clerks of the peace shall issue marriage licenses for \$10 each, \$4 of which shall be deposited by the clerks of the peace with the Department of Health and Social Services for each license delivered to the various clerks of the peace to defray the costs of the various forms and certificates required by this chapter. No charge shall be made for investigation to establish the validity of any papers required of certain applicants for marriage licenses under this chapter, nor shall any person in this State make any charge for the execution of any papers required under this chapter, except that this shall not be construed to prohibit a charge for the execution of any affidavits that are required under this chapter, and except that a charge may be made for the marriage license as provided in this chapter.

**Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 109**

The several clerks of the peace of the various counties or their deputies, also known as the Marriage Bureau, shall issue all marriage licenses and shall sign them and affix the county seal thereto.

**Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 110**

No marriage license shall be issued by a clerk of the peace when either of the parties applying for license to marry, at the time of making the application, is under the influence of intoxicating liquor or a narcotic drug or if papers that are required by this chapter are not delivered or if the issuing officer believes there is any legal impediment, as defined in this chapter, to the marriage of such parties.

**Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 111**

Clerks of the peace shall examine and satisfy themselves of the validity of papers submitted to them by divorced persons, past or present patients of insane asylums, persons on probation or parole and minors and shall file such papers in the office of the recorder of the appropriate county. Such papers shall constitute a part of the application for marriage license, but shall be open to inspection of the public only upon order of the Resident Judge of the proper county or such person as the Judge may appoint to give such orders.

**Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 113**

(a) Marriage licenses, and other forms and books used in connection with the issuance of marriage licenses shall be furnished by the Department of Health and Social Services on request of the clerks of the peace. (b) Judges shall supply certificates in whatever form they see fit to such divorced persons as they believe should receive them under this chapter. (c) Superintendents of asylums for the insane shall supply certificates in whatever form they see fit to such persons as they believe should receive them under this chapter. (d) In the case of an adult person who is on probation or parole from any court or institution, the chief officer of such court or institution, or such person as such officer may appoint to give consent to marry, shall supply such consent in whatever form such officer deems advisable to such applicants for marriage license as such officer believes may properly marry. (e) Marriage licenses, books and forms shall be as prescribed by the Department of Health and Social Services or in this chapter. Each page of the Marriage Record Books for the use of clerks of the peace shall be numbered serially before delivery to the clerks of the peace.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 114

The person performing the marriage ceremony shall retain the original or a copy of the marriage license, as the Department of Health and Social Services shall direct, for not less than 1 year after the ceremony.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 115

(a) The Department of Health and Social Services shall prescribe a marriage license form which shall be issued by the several clerks of the peace and such other forms, books, dockets and records as may be necessary to properly record marriages and the issuance of marriage licenses. The marriage license shall contain language authorizing any minister of the gospel or other person authorized by the law of the State to solemnize marriage and shall show: The earliest and latest time the marriage may be performed pursuant to the license, the place of issuance of the license, the names of the parties, the signature of the issuing authority and such other wording as the Department of Health and Social Services may prescribe. The license shall also contain a form of certification by the person performing the ceremony that the ceremony was performed and the date and time of the ceremony. (b) The Department of Health and Social Services shall furnish to all persons authorized by law to solemnize marriages a suitable form for evidencing the marriage and the date and the place thereof, which form shall be

completed and delivered without charge to the bride by the celebrant immediately after the ceremony. Such form may, but need not, be the original or a copy of the marriage license.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 116

(a) The number on the marriage license shall be filled in by the issuing officer unless it has been previously affixed and shall be the same number as that appearing on the application. The issuing officer shall immediately note the issuance of a license in the appropriate Marriage Record Book prescribed by the Department of Health and Social Services. (b) The officer issuing the license shall fill in all the blanks provided on the license. The place and precise time of issue and the earliest and latest time when the holders of the license may marry shall be shown and the issuing officer shall sign the marriage license. (c) If any clerk of the peace fails to perform the duties required by this section, such clerk shall be fined \$100.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 117

(a) The person performing the marriage shall, within 4 days after the ceremony, return to the issuing clerk of the peace such forms and papers as the Department of Health and Social Services may prescribe. (b) The clerk of the peace shall immediately enter in the Marriage Record Book, as prescribed by the Department of Health and Social Services, the date of the marriage and the name of the person performing the ceremony.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 118

(a) Any person officiating a marriage in this State who fails to return the certificate of marriage to the issuing clerk of the peace for recording within 15 days of the marriage ceremony shall be assessed a \$50 late fee by the issuing clerk of the peace. (b) Any person with an unpaid civil penalty assessed by a clerk of the peace shall have that person's authorization to solemnize marriages in the State suspended until such penalty is paid in full.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 119

The Marriage Record Books and such other forms and records as may be prescribed by the Department of Health and Social Services shall be kept by the issuing officer in the issuing officer's office. They shall be public records open for the inspection of the public and shall be admitted as evidence of the facts therein contained in any court of record.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 120

Before any marriage license shall be issued by the issuing officer, the parties desiring to marry shall together appear before such officer to be examined upon oath or affirmation in the presence and hearing of each other according to the form prescribed in § 122 of this title to which the parties applying for the license shall subscribe their names. The license shall be issued only after it has been made to appear that no legal impediment to the proposed marriage exists. In the case of critical illness of 1 of the parties desiring to marry, the physician attending such party may appear for the ill party and make an application for a marriage license for such party, if such physician first makes an affidavit and delivers it to the issuing officer stating that in the opinion of said physician the party for whom said physician is acting is at the point of death and that this person may lawfully marry. The application for the marriage license shall be altered in such case to show that said physician acted as proxy and the affidavit of the physician shall be filed with the application.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 121

In the case of applicants for a marriage license who claim to be residents of the State, if neither of them is personally known to the marriage license issuing officer as a resident of the State, at least 1 of such applicants must be identified as a resident of the State to the satisfaction of the issuing officer by a reputable guarantor, who under oath shall fill in the proper portion on the page in the Marriage Record Books and shall duly sign it.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 122

(a) The marriage license application shall be in the form prescribed and provided by the Department of Health and Social Services and shall be permanently preserved by the issuing officer in the manner as prescribed by the Department of Health and Social Services. The marriage license application shall include the following information and such other information as prescribed by the Department of Health

and Social Services: Date of application, full name, sex, race, social security number, birth date and occupation of applicants, names and addresses of parents of applicants, date and place of previous marriages and termination of previous marriages, place and court where applicants are on probation or parole, if such they be, and time of application. (b) The application shall contain a certification by each applicant that each applicant is not of a prohibited degree of relationship. (c) The applicants and issuing officer shall sign the application and the issuing officer shall certify as follows: "I believe neither party is now under the influence of intoxicating liquor nor a narcotic drug. I have demanded and examined such papers as are required by law and I am satisfied that they are properly executed. I know of no legal impediment to the proposed marriage of the above applicants." The application shall also contain an appropriate affidavit form to be signed by persons certifying that an applicant is a resident of the State, if such certification is required.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 123

(a) No individual under the age of 18 shall be granted a marriage license except under the provisions of subsection (b) of this section. (b) If an applicant for a license to marry is under the age of 18 years, the license shall not be issued unless a Judge of the Family Court sitting in the county where the minor applicant resides signs an order allowing the applicant to marry in accordance with the procedure set forth in subsection (c) of this section. The Court shall make a decision on the petition in accordance with: the best interests of the minor seeking to be married; the wishes of the minor and such minor's parents or legal guardians; the mental and physical health of the individuals to be married; the criminal history of the individuals seeking to be married; whether the proposed marriage would violate any Delaware laws; and such other information which the Court deems appropriate. (c) A parent, legal guardian or next friend on the minor's behalf shall petition the Family Court in the county where the minor applicant resides for an order allowing said applicant to marry. (d) If the proposed marriage involves minors who reside in different counties within Delaware, the petition shall be filed in the county where the youngest minor resides.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 124

Every person authorized by this chapter to issue licenses may administer oaths or affirmations to the parties applying for the license.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 125

All marriages performed prior to March 20, 1913, by a minister of any religion, even though not a stated and ordained minister of the gospel, if otherwise valid, shall be as valid as if the same had been performed by a stated and ordained minister of the gospel.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 126

Nothing in this chapter shall be construed to render any common-law or other marriage, otherwise lawful, invalid by reason of the failure to take out a license as provided by this chapter.

Delaware Code - Title 13: Domestic Relations - Chapter 1: Marriage - Subchapter I: General Provisions
§ § 128

Any person or religious society having authority to solemnize marriages who performs a marriage ceremony without the presentation of a license issued pursuant to this chapter, or who performs the same prior to the expiration of 24 hours from the time of the issuance of the license or more than 30 days after the time of the issuance of the license, shall be imprisoned not more than 6 months or fined not more than \$500, or both. Any person or religious society having authority to solemnize marriages who shall make any false certificate of marriage shall be fined \$100.