

Illinois Compiled Statutes - Rights and Remedies - Chapter 750. Families - 5. Illinois Marriage and Dissolution of Marriage Act - Part II. Marriage § Sec. 209

(a) A marriage may be solemnized by a judge of a court of record, by a retired judge of a court of record, unless the retired judge was removed from office by the Judicial Inquiry Board, except that a retired judge shall not receive any compensation from the State, a county or any unit of local government in return for the solemnization of a marriage and there shall be no effect upon any pension benefits conferred by the Judges Retirement System of Illinois, by a judge of the Court of Claims, by a county clerk in counties having 2,000,000 or more inhabitants, by a public official whose powers include solemnization of marriages, or in accordance with the prescriptions of any religious denomination, Indian Nation or Tribe or Native Group, provided that when such prescriptions require an officiant, the officiant be in good standing with his religious denomination, Indian Nation or Tribe or Native Group. Either the person solemnizing the marriage, or, if no individual acting alone solemnized the marriage, both parties to the marriage, shall complete the marriage certificate form and forward it to the county clerk within 10 days after such marriage is solemnized. (b) The solemnization of the marriage is not invalidated by the fact that the person solemnizing the marriage was not legally qualified to solemnize it, if either party to the marriage believed him to be so qualified or by the fact that the marriage was inadvertently solemnized in a county in Illinois other than the county where the license was issued.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 204

The county clerk shall distribute free of charge, to all persons applying for a marriage license, a brochure prepared by the Department of Public Health concerning sexually transmitted diseases and inherited metabolic diseases.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 1: General Provisions § Sec. 101

This Act may be cited as the "Illinois Marriage and Dissolution of Marriage Act".

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 1: General Provisions § Sec. 102

This Act shall be liberally construed and applied to promote its underlying purposes, which are to: (1) provide adequate procedures for the solemnization and registration of marriage; (2) strengthen and preserve the integrity of marriage and safeguard family relationships; (3) promote the amicable settlement of disputes that have arisen between parties to a marriage; (4) mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage; (5) make reasonable provision for spouses and minor children during and after litigation, including provision for timely awards of interim fees to achieve substantial parity in parties' access to funds for litigation costs; (6) eliminate the consideration of marital misconduct in the adjudication of rights and duties incident to the legal dissolution of marriage, legal separation and declaration of invalidity of marriage; (7) secure the maximum involvement and cooperation of both parents regarding the physical, mental, moral and emotional wellbeing of the children during and after the litigation; and (8) make provision for the preservation and conservation of assets during the litigation.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 1: General Provisions § Sec. 103

There shall be no trial by jury under this Act.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 1: General Provisions § Sec. 104

The proceedings shall be had in the county where the plaintiff or defendant resides, except as otherwise provided herein, but process may be directed to any county in the State. Objection to venue is barred if not made within such time as the defendant's response is due. In no event shall venue be deemed jurisdictional.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 1: General Provisions § Sec. 105

(a) The provisions of the Civil Practice Law shall apply to all proceedings under this Act, except as otherwise provided in this Act. (b) A proceeding for dissolution of marriage, legal separation or declaration of invalidity of marriage shall be entitled "In re the Marriage of ... and ...". A custody or support proceeding shall be entitled "In re the (Custody) (Support) of ...". (c) The initial pleading in all proceedings under this Act shall be denominated a petition. A responsive pleading shall be denominated a response. All other pleadings under this Act shall be denominated as provided in the Civil Practice Law.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 1: General Provisions § Sec. 106

The employment of qualified administrative aides to assist the court of any county in the administration of proceedings hereunder may be provided for by such county as the case may be. All such aides shall be appointed by the authority which provided for them, subject to the approval of a majority of the judges of each court involved, and shall serve for such terms and shall receive such compensation as provided by ordinance. (a) The administrative aides shall perform such nonjudicial duties with respect to proceedings hereunder and matters ancillary thereto as the court shall direct. (b) Any county may make such appropriations as may be necessary to provide for the expense and compensation of the administrative aides.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 1: General Provisions § Sec. 107

Order of protection; status. Whenever relief is sought under Part V, Part VI or Part VII of this Act, the court, before granting relief, shall determine whether any order of protection has previously been entered in the instant proceeding or any other proceeding in which any party, or a child of any party, or both, if relevant, has been designated as either a respondent or a protected person.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 201

A marriage between a man and a woman licensed, solemnized and registered as provided in this Act is valid in this State.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 202

(a) The Director of Public Health shall prescribe the form for an application for a marriage license, which shall include the following information: (1) name, sex, occupation, address, social security number, date and place of birth of each party to the proposed marriage; (2) if either party was previously married, his name, and the date, place and court in which the marriage was dissolved or declared invalid or the date and place of death of the former spouse; (3) name and address of the parents or guardian of each party; and (4) whether the parties are related to each other and, if so, their relationship. (b) The Director of Public Health shall prescribe the forms for the marriage license, the marriage certificate and, when necessary, the consent to marriage.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 203

When a marriage application has been completed and signed by both parties to a prospective marriage and both parties have appeared before the county clerk and the marriage license fee has been paid, the county clerk shall issue a license to marry and a marriage certificate form upon being furnished: (1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time the marriage license is effective or will have attained the age of 16 years and has either the consent to the marriage of both parents or his guardian or judicial approval; provided, if one parent cannot be located in order to obtain such consent and diligent efforts have been made to locate that parent by the consenting parent, then the consent of one parent plus a signed affidavit by the consenting parent which (i) names the absent parent and states that he or she cannot be located, and (ii) states what diligent efforts have been made to locate the absent parent, shall have the effect of both parents' consent for purposes of this Section; (2) satisfactory proof that the marriage is not prohibited; and (3) an affidavit or record as prescribed in subparagraph (1) of Section 205 or a court order as prescribed in subparagraph (2) of Section 205, if applicable. With each marriage license, the county clerk shall provide a pamphlet describing the causes and effects of fetal alcohol syndrome. At least annually, the county board shall submit to the Illinois Department of Public Health a report as to the county clerk's compliance with the requirement that the county clerk provide a pamphlet with each marriage license. All funding and production costs for the aforementioned educational pamphlets for distribution to each county clerk shall be provided by non-profit, non-sectarian statewide programs that provide education, advocacy, support, and prevention services pertaining to Fetal Alcohol Syndrome.

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(1) Irrespective of the results of laboratory tests and clinical examination relative to sexually transmitted diseases, the clerks of the respective counties shall issue a marriage license to parties to a proposed marriage (a) when a woman is pregnant at the time of such application, or (b) when a woman has, prior to the time of application, given birth to a child born out of wedlock which is living at the time of such application and the man making such application makes affidavit that he is the father of such child born out of wedlock. The county clerk shall, in lieu of the health certificate required hereunder, accept, as the case may be, either an affidavit on a form prescribed by the State Department of Public Health, signed by a physician duly licensed in this State, stating that the woman is pregnant, or a copy of the birth record of the child born out of wedlock, if one is available in this State, or if such birth record is not

available, an affidavit signed by the woman that she is the mother of such child. (2) Any judge of the circuit court within the county in which the license is to be issued is authorized and empowered on joint application by both applicants for a marriage license to waive the requirements as to medical examination, laboratory tests, and certificates, except the requirements of paragraph (4) of subsection (a) of Section 212 of this Act which shall not be waived; and to authorize the county clerk to issue the license if all other requirements of law have been complied with and the judge is satisfied, by affidavit, or other proof, that the examination or tests are contrary to the tenets or practices of the religious creed of which the applicant is an adherent, and that the public health and welfare will not be injuriously affected thereby.

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Any health certificate filed with the county clerk, or any certificate, affidavit, or record accepted in lieu thereof, shall be retained in the files of the office for one year after the license is issued and shall thereafter be destroyed by the county clerk.

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A license to marry becomes effective in the county where it was issued one day after the date of issuance, unless the court orders that the license is effective when issued, and expires 60 days after it becomes effective, provided that the marriage is not invalidated by the fact that the marriage was inadvertently solemnized in a county in Illinois other than the county where the license was issued.

(Source: P.A. 95775, eff. 1109.)

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(a) The court, after a reasonable effort has been made to notify the parents or guardian of each underaged party, may order the county clerk to issue a marriage license and a marriage certificate form to a party aged 16 or 17 years who has no parent capable of consenting to his marriage or whose parent or guardian has not consented to his marriage. (b) A marriage license and a marriage certificate form may be issued under this Section only if the court finds that the underaged party is capable of assuming the responsibilities of marriage and the marriage will serve his best interest. Pregnancy alone does not establish that the best interest of the party will be served.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 209

(a) A marriage may be solemnized by a judge of a court of record, by a retired judge of a court of record, unless the retired judge was removed from office by the Judicial Inquiry Board, except that a retired judge shall not receive any compensation from the State, a county or any unit of local government in return for the solemnization of a marriage and there shall be no effect upon any pension benefits conferred by the Judges Retirement System of Illinois, by a judge of the Court of Claims, by a county clerk in counties having 2,000,000 or more inhabitants, by a public official whose powers include solemnization of marriages, or in accordance with the prescriptions of any religious denomination,

Indian Nation or Tribe or Native Group, provided that when such prescriptions require an officiant, the officiant be in good standing with his religious denomination, Indian Nation or Tribe or Native Group. Either the person solemnizing the marriage, or, if no individual acting alone solemnized the marriage, both parties to the marriage, shall complete the marriage certificate form and forward it to the county clerk within 10 days after such marriage is solemnized. (b) The solemnization of the marriage is not invalidated by the fact that the person solemnizing the marriage was not legally qualified to solemnize it, if either party to the marriage believed him to be so qualified or by the fact that the marriage was inadvertently solemnized in a county in Illinois other than the county where the license was issued.

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Upon receipt of the marriage certificate, the county clerk shall register the marriage. Within 45 days after the close of the month in which a marriage is registered, the county clerk shall make to the Department of Public Health a return of such marriage. Such return shall be made on a form furnished by the Department of Public Health and shall substantially consist of the following items: (1) A copy of the marriage license application signed and attested to by the applicants, except that in any county in which the information provided in a marriage license application is entered into a computer, the county clerk may submit a computer copy of such information without the signatures and attestations of the applicants. (2) The date and place of marriage. (3) The marriage license number.

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In transmitting the required returns, the county clerk shall make a report to the Department of Public Health stating the total number of marriage licenses issued during the month for which returns are made, and the number of marriage certificates registered during the month.

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(a) The following marriages are prohibited: (1) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties; (2) a marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood or by adoption; (3) a marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood; (4) a marriage between cousins of the first degree; however, a marriage between first cousins is not prohibited if: (i) both parties are 50 years of age or older; or (ii) either party, at the time of application for a marriage license, presents for filing with the county clerk of the county in which the marriage is to be solemnized, a certificate signed by a licensed physician stating that the party to the proposed marriage is permanently and irreversibly sterile; (5) a marriage between 2 individuals of the same sex. (b) Parties to a marriage prohibited under subsection (a) of this Section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment. (c) Children born or adopted of a prohibited or common law marriage are the lawful children of the parties.

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All marriages contracted within this State, prior to the effective date of this Act, or outside this State, that were valid at the time of the contract or subsequently validated by the laws of the place in which they were contracted or by the domicile of the parties, are valid in this State, except where contrary to the public policy of this State.

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A marriage between 2 individuals of the same sex is contrary to the public policy of this State.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 214

Common law marriages contracted in this State after June 30, 1905 are invalid.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 215

Unless otherwise provided by law, any person who violates any provision of Part II of this Act is guilty of a Class B misdemeanor.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 216

That if any person residing and intending to continue to reside in this state and who is disabled or prohibited from contracting marriage under the laws of this state, shall go into another state or country and there contract a marriage prohibited and declared void by the laws of this state, such marriage shall be null and void for all purposes in this state with the same effect as though such prohibited marriage had been entered into in this state.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 217

No marriage shall be contracted in this state by a party residing and intending to continue to reside in another state or jurisdiction if such marriage would be void if contracted in such other state or jurisdiction and every marriage celebrated in this state in violation of this provision shall be null and void.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 2: Marriage § Sec. 218

Before issuing a license to marry a person who resides and intends to continue to reside in another state, the officer having authority to issue the license shall satisfy himself by requiring affidavits or otherwise that such person is not prohibited from intermarrying by the laws of the jurisdiction where he or she resides.

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Any official issuing a license with knowledge that the parties are thus prohibited from intermarrying and any person authorized to celebrate marriage who shall knowingly celebrate such a marriage shall be guilty of a petty offense.

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The court shall enter its judgment declaring the invalidity of a marriage (formerly known as annulment) entered into under the following circumstances: (1) a party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity or because of the influence of alcohol, drugs or other incapacitating substances, or a party was induced to enter into a marriage by force or duress or by fraud involving the essentials of marriage; (2) a party lacks the physical capacity to consummate the marriage by sexual intercourse and at the time the marriage was solemnized the other party did not know of the incapacity; (3) a party was aged 16 or 17 years and did not have the consent of his parents or guardian or judicial approval; or (4) the marriage is prohibited.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 3: Declaration of Invalidity of Marriage § Sec. 302

(a) A declaration of invalidity under paragraphs (1) through (3) of Section 301 may be sought by any of the following persons and must be commenced within the times specified: (1) for any of the reasons set forth in paragraph (1) of Section 301, by either party or by the legal representative of the party who lacked capacity to consent, no later than 90 days after the petitioner obtained knowledge of the described condition; (2) for the reason set forth in paragraph (2) of Section 301, by either party, no later than one year after the petitioner obtained knowledge of the described condition; (3) for the reason set forth in paragraph (3) of Section 301, by the underaged party, his parent or guardian, prior to the time the underaged party reaches the age at which he could have married without needing to satisfy the omitted requirement. (b) In no event may a declaration of invalidity of marriage be sought after the death of either party to the marriage under subsections (1), (2) and (3) of Section 301. (c) A declaration of invalidity for the reason set forth in paragraph (4) of Section 301 may be sought by either party, the legal spouse in case of a bigamous marriage, the State's Attorney or a child of either party, at any time not to exceed 3 years following the death of the first party to die.

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Children born or adopted of a marriage declared invalid are the lawful children of the parties. Children whose parents marry after their birth are the lawful children of the parties.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 3: Declaration of Invalidity of Marriage § Sec. 304

Unless the court finds, after a consideration of all relevant circumstances, including the effect of a retroactive judgment on third parties, that the interests of justice would be served by making the judgment not retroactive, it shall declare the marriage invalid as of the date of the marriage. The provisions of this Act relating to property rights of the spouses, maintenance, support and custody of children on dissolution of marriage are applicable to non-retroactive judgments of invalidity of marriage only.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 3: Declaration of Invalidity of Marriage § Sec. 305

Any person, having gone through a marriage ceremony, who has cohabited with another to whom he is not legally married in the good faith belief that he was married to that person is a putative spouse until knowledge of the fact that he is not legally married terminates his status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance following termination of his status, whether or not the marriage is prohibited, under Section 212, or declared invalid, under Section 301. If there is a legal spouse or other putative spouse, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses, but the court shall apportion property, maintenance and support rights among the claimants as appropriate in the circumstances and in the interests of justice. This Section shall not apply to common law marriages contracted in the State after June 30, 1905.

Illinois Compiled Statutes - Rights and Remedies - Chapter 750: Families - 5: Illinois Marriage and Dissolution of Marriage Act - Part 3: Declaration of Invalidity of Marriage § Sec. 306

Actions for declaration of invalidity of marriage shall be commenced as in other civil cases.