

# MARRIAGE LICENSES.

## CHAPTER 91.

[H. F. 67.]

### RELATING TO MARRIAGE LICENSES.

#### AN ACT Relating to Marriage and Providing Licenses.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. MARRIAGE DEFINED.] Marriage is a personal relation arising out of a civil contract, to which the consent of the parties thereto is essential; but the marriage relation shall be entered into, maintained, annulled or dissolved only as provided by law.

§ 2. AGE OF CONSENT TO MARRIAGE.] Any unmarried male of the age of sixteen years or upwards, and any unmarried female of the age of thirteen years or upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage; *Provided*, That if the male is under twenty-one years or the female under eighteen years of age, the license provided for in this act shall not be issued without the consent of the parent or guardian, if there be any.

§ 3. WHO DISQUALIFIED TO MARRY.] Marriages between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the one-half as well as the whole blood, between uncles and nieces, aunts and nephews or cousins or the one-half as well as the whole blood, are declared to be incestuous and absolutely void. This section shall apply to illegitimate as well as legitimate children and relations.

§ 4. PENALTY.] Whoever shall contract marriage, in fact, contrary to Section 3 of this act, and whoever shall issue any license for or solemnize any such marriage knowingly, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment not to exceed six months or by a fine not to exceed five hundred (500) dollars.

§ 5. WHEN MARRIAGE VOIDABLE.] If either party to a marriage be incapable, from physical causes, of entering into the marriage state, or if the consent of either be obtained by force or fraud, the marriage is voidable.

§ 6. SAME.] A marriage contracted by a person having a former husband or wife living, and the former marriage has not been annulled or dissolved, is illegal and void from the beginning; un-

less such former husband or wife was absent and believed by such person to be dead for a period of five years immediately preceding.

§ 7. WHO MAY SOLEMNIZE MARRIAGES—LICENSE.] Marriages may be solemnized by all judges of courts of record within their respective jurisdictions; justices of the peace within their respective jurisdiction, by ordained ministers of the gospel and priests of every church throughout the State, but marriages solemnized in the society of Friends or Quakers according to the form used in their meetings, shall be valid. No such person shall solemnize any marriage until the parties thereto shall produce a license, issued by the judge of the county court of the county in which such ceremony is to be performed or if such county be unorganized the county to which it is attached for judicial purposes. When any person authorized by law shall solemnize a marriage he shall fill out and sign the certificate following the marriage license on the blank form prescribed by law, giving official title, or if minister of the gospel or priest, the ecclesiastical body with which he is connected and return such license and certificate to the county auditor or county clerk of the county within thirty days thereafter. Such certificate shall be signed by two witnesses to the marriage ceremony, in addition to the signature of the person who solemnized the marriage.

§ 8. MARRIAGE LICENSE, HOW OBTAINED.] The judge of the county court of the several counties in this State, when applied to by any person for a marriage license, shall inquire of such person, upon oath, relative to the legality of such contemplated marriage and he may examine other witnesses, upon oath, if deemed best; and if any of the persons intending to marry are under age said judge of the county court shall require the consent of the parent or guardian (if there be any) personally given, or a certificate of consent signed by such parent or guardian and attested by two witnesses, one of whom shall appear before such judge of the county court and make oath that he saw such parent or guardian sign such certificate; and if said judge of the county court shall be satisfied there is no legal impediment thereto, he shall issue and sign such marriage license and affix his seal, in the form prescribed by law.

§ 9. LICENSE AND CERTIFICATE.] The marriage license and certificate of the person solemnizing the marriage shall be upon one blank form substantially as follows:

MARRIAGE LICENSE.

County of....., State of North Dakota, .....  
 A. D., 18... To any person authorized by law to perform  
 the marriage ceremony, greeting: You are hereby authorized to  
 join in marriage....., of.....aged.....  
 and....., of....., aged.....; and of

this license and your certificate you will make due return to my office within thirty days.

[SEAL]

.....  
Judge of the County Court.

CERTIFICATE OF MARRIAGE.

I hereby certify that the persons named in the foregoing license were by me joined in marriage at....., county of ....., State of North Dakota, on the.....day of ....., 18...

In presence of: }  
..... } Witnesses: .....  
..... }

§ 10. RECORD TO BE KEPT BY COUNTY COURT.] The judge of the county court shall keep a marriage record book, in which he shall keep a correct copy of all marriage licenses issued by him; and when a license is returned with the certificate of the person performing the marriage ceremony properly filled out and signed, he shall also record such certificate immediately following the record of such license; and for each license and the record herein required he shall be entitled to a fee of one (1) dollar, to be paid by the party applying for the same.

§ 11. PENALTY.] If any judge of the county court shall neglect to record a copy of such license or the certificate of the person performing the marriage ceremony within thirty days after the return of the same, or if any person authorized to perform the marriage ceremony shall join any persons in marriage before a license, issued by the judge of the county court under his hand and official seal, shall be produced to him, or shall fail to execute the certificate and return license and certificate to the proper judge of the county court, he shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not to exceed five hundred (500) dollars and costs, to be recovered for the use of the county.

§ 12. PENALTY FOR PERSONS NOT AUTHORIZED TO PERFORM MARRIAGE CEREMONY.] Any person not authorized by law to perform the marriage ceremony, who shall attempt to join others in marriage, shall be deemed guilty of a misdemeanor, and, upon conviction shall be fined not to exceed five hundred (500) dollars and not less than one hundred (100) dollars and costs, or be imprisoned in the county jail not exceeding one year, and not less than three months in the discretion of the court; *Provided*, That no marriage shall be void by reason of being performed without authority, if otherwise lawful and one or both parties to the marriage believed that they were lawfully married.

§ 13. INDIAN MARRIAGE CONTRACTS VALID.] Indians contracting marriage according to the Indian custom, and cohabitating as man and wife, shall be deemed legally married.

§ 14. MARRIAGES CONTRACTED OUTSIDE VALID IN THIS STATE.]

All marriages contracted outside of this State, which are valid according to the laws of the state or county where contracted, shall be valid in this State.

§ 15. COPY OF RECORD TO CONSTITUTE EVIDENCE IN COURT.] The books of record of marriage licenses issued and certificates returned, kept by the judge of the county court of any county, and copies of entries therein, certified by such county auditor or clerk, under his official seal, shall be received as evidence in all courts.

§ 16. PENALTY FOR UNMARRIED PERSONS TO LIVE TOGETHER AS MAN AND WIFE.] Any persons living together as man and wife within this State without being married, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than one hundred (100) dollars nor more than five hundred (500) dollars, or be imprisoned in the county jail not less than thirty days nor more than one year, and shall pay costs of the prosecution.

§ 17. MARRIAGE REGISTERS TO BE TURNED OVER TO COUNTY COURT.] It shall be the duty of the register of deeds, the judges of the county courts or other officers with whom certificates of marriage may have been filed, of each county to deliver to the judge of the county court of such county, within thirty days after the taking effect of this [act] all marriage registers in his office.

§ 18. CONFLICTING ACTS REPEALED.] Sections 34 to 53 inclusive, of the Civil Code, and all other acts and parts of acts in conflict with this act are hereby repealed.

Approved March 20, 1890.

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## MEDICAL SCIENCE.

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### CHAPTER 92.

[H. F. 186.]

FOR THE PROMOTION OF MEDICAL SCIENCE.

AN ACT to Promote Medical Science.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. WHAT DEAD BODIES MAY BE USED FOR DISSECTING.] It shall be lawful for any medical association, regular physician and surgeon, or the professors of any medical college, that is now or may hereafter become established within the State of North Da-