

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To End Discrimination in Civil Marriage and Affirm Religious Freedom

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

Sec. 1. 19-A MRSA §650, as enacted by PL 1997, c. 65, §2, is repealed.

Sec. 2. 19-A MRSA §650-A is enacted to read:

§ 650-A. Codification of marriage

Marriage is the legally recognized union of 2 people. Gender-specific terms relating to the marital relationship or familial relationships, including, but not limited to, "spouse," "family," "marriage," "immediate family," "dependent," "next of kin," "bride," "groom," "husband," "wife," "widow" and "widower," must be construed to be gender-neutral for all purposes throughout the law, whether in the context of statute, administrative or court rule, policy, common law or any other source of civil law.

Sec. 3. 19-A MRSA §650-B is enacted to read:

§ 650-B. Recognition of marriage licensed and certified in another jurisdiction

A marriage of a same-sex couple that is validly licensed and certified in another jurisdiction is recognized for all purposes under the laws of this State.

Sec. 4. 19-A MRSA §651, sub-§2, as amended by PL 1997, c. 537, §12 and affected by §62, is further amended to read:

2. Application. The parties wishing to record notice of their intentions of marriage shall submit an application for recording notice of their intentions of marriage. The application may be issued to any 2 persons otherwise qualified under this chapter regardless of the sex of each person. The application must include a signed certification that the information recorded on the application is correct and that the applicant is free to marry according to the laws of this State. The applicant's signature must be acknowledged before an official authorized to take oaths. Applications recording notice of intentions to marry must be open for public inspection in the office of the clerk. When the application is submitted, the applicant shall provide the clerk with the social security numbers of the parties. The application must include a statement that the social security numbers of the parties have been provided to the clerk. The clerk shall record the social security numbers provided by each applicant. The record of the social security numbers is confidential and is not open for public inspection.

Sec. 5. 19-A MRSA §655, sub-§3 is enacted to read:

3. Affirmation of religious freedom. This Part does not authorize any court or other state or local governmental body, entity, agency or commission to compel, prevent or interfere in any way with any religious institution's religious doctrine, policy, teaching or solemnization of marriage within that particular religious faith's tradition as guaranteed by the Maine Constitution, Article 1, Section 3 or

the First Amendment of the United States Constitution. A person authorized to join persons in marriage and who fails or refuses to join persons in marriage is not subject to any fine or other penalty for such failure or refusal.

Sec. 6. 19-A MRSA §701, as amended by PL 2007, c. 695, Pt. C, §4, is further amended to read:

§ 701. Prohibited marriages; exceptions

1. Marriage out of State to evade law. ~~When residents of this State, with intent to evade this section and to return and reside here, go into another state or country to have their marriage solemnized there and afterwards return and reside here, that marriage is void in this State.~~

1-A. Certain marriages performed in another state not recognized in this State. Any marriage performed in another state that would violate any provisions of subsections 2 to 54 performed in this State is not recognized in this State and is considered void if the parties take up residence in this State.

2. Prohibitions based on degrees of consanguinity; exceptions. This subsection governs marriage between relatives.

A. ~~A man may not marry his mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister, mother's sister, the daughter of his father's brother or sister or the daughter of his mother's brother or sister. A woman may not marry her father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother, mother's brother, the son of her father's brother or sister or the son of her mother's brother or sister~~person may not marry that person's parent, grandparent, child, grandchild, sibling, nephew, niece, aunt, uncle or first cousin.

B. Notwithstanding paragraph A, a ~~man~~person may marry the ~~daughter of his father's brother or sister or the daughter of his mother's brother or sister~~, and a woman may marry the ~~son of her father's brother or sister or the son of her mother's brother or sister~~that person's first cousin as long as, pursuant to sections 651 and 652, the ~~man or woman~~person provides the physician's certificate of genetic counseling.

3. Persons under disability. A person who is impaired by reason of mental illness or mental retardation to the extent that that person lacks sufficient understanding or capacity to make, communicate or implement responsible decisions concerning that person's property or person is not capable of contracting marriage. For the purposes of this section:

A. "Mental illness" means a psychiatric or other disease that substantially impairs a person's mental health; and

B. "Mental retardation" means a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.

4. Polygamy. A marriage contracted while either party has a living wife or husband from whom the party is not divorced is void.

5. Same sex marriage prohibited. ~~Persons of the same sex may not contract marriage.~~

SUMMARY

This bill repeals the provision that limits marriage to one man and one woman and replaces it with the authorization for marriage between any 2 persons that meet the other requirements of Maine law. It also specifies that a marriage between 2 people of the same sex in another state that is valid in that state is valid and must be recognized in this State.

This bill also clarifies that the authorization of marriage between 2 people of the same sex does not compel any religious institution to alter its doctrine, policy or teaching regarding marriage or to solemnize any marriage in conflict with that doctrine, policy or teaching. It also specifies that a person authorized to join persons in marriage and who fails or refuses to join persons in marriage is not subject to any fine or other penalty for such failure or refusal.