



# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1860

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I.B. 3

House of Representatives, March 12, 2012

### **An Act To Allow Marriage Licenses for Same-sex Couples and Protect Religious Freedom**

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Transmitted to the Clerk of the 125th Maine Legislature by the Secretary of State on March 8, 2012 and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

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

2 **Sec. 1. 19-A MRSA §650-A** is enacted to read:

3 **§650-A. Codification of marriage**

4 Marriage is the legally recognized union of 2 people. Gender-specific terms relating  
5 to the marital relationship or familial relationships must be construed to be gender-neutral  
6 for all purposes throughout the law, whether in the context of statute, administrative or  
7 court rule, policy, common law or any other source of civil law.

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

9 **§650-B. Recognition of marriage licensed and certified in another jurisdiction**

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

12 **Sec. 3. 19-A MRSA §651, sub-§2**, as amended by PL 1997, c. 537, §12 and  
13 affected by §62, is further amended to read:

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

27 **Sec. 4. 19-A MRSA §655, sub-§3** is enacted to read:

28 **3. Religious exemption.** This chapter does not require any member of the clergy to  
29 perform or any church, religious denomination or other religious institution to host any  
30 marriage in violation of the religious beliefs of that member of the clergy, church,  
31 religious denomination or other religious institution. The refusal to perform or host a  
32 marriage under this subsection cannot be the basis for a lawsuit or liability and does not  
33 affect the tax-exempt status of the church, religious denomination or other religious  
34 institution.

35 **Sec. 5. 19-A MRSA §701**, as amended by PL 2007, c. 695, Pt. C, §4, is further  
36 amended to read:

1           **§701. Prohibited marriages; exceptions**

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

6           **1-A. Certain marriages performed in another state not recognized in this State.**  
7 Any marriage performed in another state that would violate any provisions of subsections  
8 2 to ~~5~~ 4 if performed in this State is not recognized in this State and is considered void if  
9 the parties take up residence in this State.

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

12           A. A man may not marry his mother, grandmother, daughter, granddaughter, sister,  
13 brother's daughter, sister's daughter, father's sister, mother's sister, the daughter of his  
14 father's brother or sister or the daughter of his mother's brother or sister. A woman  
15 may not marry her father, grandfather, son, grandson, brother, brother's son, sister's  
16 son, father's brother, mother's brother, the son of her father's brother or sister or the  
17 son of her mother's brother or sister. A person may not marry that person's parent,  
18 grandparent, child, grandchild, sibling, nephew, niece, aunt or uncle.

19           B. Notwithstanding paragraph A, a man may marry the daughter of his father's  
20 brother or sister or the daughter of his mother's brother or sister, and a woman may  
21 marry the son of her father's brother or sister or the son of her mother's brother or  
22 sister as long as, pursuant to sections 651 and 652, the man or woman provides the  
23 physician's certificate of genetic counseling.

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

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

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

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

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

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**SUMMARY**

This initiated 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 persons of the same sex in another state that is valid in that state is valid and must be recognized in this State. It also provides that a member of the clergy is not required to perform and a church, religious denomination or other religious institution is not required to host a marriage in violation of the religious beliefs of that member of the clergy, church, religious denomination or other religious institution and that any such refusal cannot be the basis for a lawsuit or liability and does not affect the tax-exempt status of the church, religious denomination or other religious institution.