

Judiciary 2/21

Senate File 192
Judiciary
Rodgers, Chairman
Coleman
Hill of Polk

FILED FEB 20 1975

SENATE FILE 192

By DODERER
(Brandt, O'Halloran, Jochum,
Doyle, Small, Cusack, Rinas,
Crawford, Newhard and
Middleton)

Passed Senate, Date 5-15-75 (1405) Passed House, Date 6-18-75 (2653)
Vote: Ayes 39 Nays 1 Vote: Ayes 88 Nays 7
Approved 7-14-75

Repassed Senate as amended by House
6-19-75 (2197)
29-3

A BILL FOR

1 An Act relating to age requirements of applicants for marriage
2 licenses, and to legitimacy of children born of certain
3 marriages.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section five hundred ninety-five point two
2 (595.2), Code 1975, is amended by striking the section and
3 inserting in lieu thereof the following:

4 595.2 AGE. A marriage between a male and a female each
5 eighteen years of age or older is valid. A marriage between
6 a male and a female either or both of whom have not attained
7 that age may be valid under the circumstances prescribed in
8 this section.

9 1. If either party to a marriage falsely represents himself
10 or herself to be eighteen years of age or older at or before
11 the time the marriage is solemnized, the marriage is valid
12 unless the person who falsely represented his or her age
13 chooses to void the marriage by making his or her true age
14 known and verified by a birth certificate or other legal
15 evidence of age in an annulment proceeding initiated at any
16 time before he or she reaches his or her eighteenth birthday.
17 A child born of a marriage voided under this subsection is
18 legitimate.

19 2. A marriage license may be issued to a male and a female
20 either or both of whom are sixteen or seventeen years of age
21 if:

22 a. The parents of the underaged party or parties certify
23 in writing that they consent to the marriage. If one of the
24 parents of any underaged party to a proposed marriage is dead
25 or incompetent the certificate may be executed by the other
26 parent, if both parents are dead or incompetent the guardian
27 of the underaged party may execute the certificate, and if
28 the parents are divorced the parent having legal custody may
29 execute the certificate and

30 b. The certificate of consent of the parents, parent or
31 guardian is approved by a judge of the district court or,
32 if both parents of any underaged party to a proposed marriage
33 are dead, incompetent or cannot be located and the party has
34 no guardian, the proposed marriage is approved by a judge
35 of the district court. A judge shall grant approval under

1 this subsection only if he finds the underaged party or parties
 2 capable of assuming the responsibilities of marriage and that
 3 the marriage will serve the best interest of the underaged
 4 party or parties. Pregnancy alone does not establish that
 5 the proposed marriage is in the best interest of the underaged
 6 party or parties, however if pregnancy is involved the court
 7 records which pertain to the fact that the female is pregnant
 8 shall be sealed and available only to the parties to the
 9 marriage or proposed marriage or to any interested party
 10 securing an order of the court.

11 Sec. 2. Section five hundred ninety-five point three
 12 (595.3), subsection two (2), Code 1975, is amended to read
 13 as follows:

14 2. Where either party is under eighteen years of age,
 15 ~~unless a certificate of the consent of the parents is filed~~
 16 the marriage is approved by a judge of the district court
 17 as provided by section five hundred ninety-five point two
 18 (595.2), subsection two (2), of the Code. If one of the
 19 ~~parents is dead such certificate may be executed by the~~
 20 ~~survivor. If either parent is incompetent or his presence~~
 21 ~~is unknown, the judge of the district court having jurisdiction~~
 22 ~~in the county may, after hearing, upon proper cause shown,~~
 23 ~~execute such certificate. If both parents are dead the~~
 24 ~~guardian of a minor may execute the certificate but if the~~
 25 ~~minor has no guardian then the judge of the district court~~
 26 ~~having jurisdiction in the county may, after hearing, upon~~
 27 ~~proper cause shown, execute the certificate. If the parents~~
 28 ~~are divorced, the parent having legal custody may execute~~
 29 ~~the certificate.~~

30 Sec. 3. Section five hundred ninety-five point eighteen
 31 (595.18), Code 1975, is amended to read as follows:

32 595.18 ISSUE LEGITIMATIZED. Illegitimate children become
 33 legitimate by the subsequent marriage of their parents.
 34 Children born of a marriage contracted in violation of section.
 35 five hundred ninety-five point three (595.3) or five hundred

1 ninety-five point nineteen (595.19) of the Code are legitimate.

2 Sec. 4. Section five hundred ninety-five point eight
3. (595.8), Code 1975, is repealed.

4 EXPLANATION

5 This bill makes eighteen the minimum age for marriage for
6 males and females. Presently, males must be eighteen and
7 females must be sixteen to make the marriage contract valid.

8 Persons who are sixteen or seventeen years of age may,
9 however, contract a valid marriage with the consent of parents
10 or a guardian and upon a finding by the district court that
11 the marriage is in the best interest of both parties and that
12 both underaged parties are capable of assuming the
13 responsibilities of marriage. Pregnancy alone does not
14 establish the marriage to be in the best interest of both
15 parties.

16 Under the present law, males under eighteen and females
17 under sixteen may not obtain a marriage license even with
18 parental consent, except when the female is pregnant and the
19 district court authorizes the issuance of the marriage license.

20 This bill further makes children born of marriages between
21 the following persons legitimate:

- 22 1. Persons disqualified from making any civil contract.
- 23 2. Persons within the prohibited degrees of consanguinity
24 or affinity.
- 25 3. Persons who are mentally ill or retarded or under
26 guardianship as an incompetent.
- 27 4. Persons who are under eighteen and fail to obtain
28 permission to marry from their parents and the district court.
- 29 5. Persons who have a living husband or wife.

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LSB 437
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H-4167

1 Amend Senate File 192, as passed by the
2 Senate, page 2, by inserting after line 29
3 the following new section:
4 "Sec. ____ . Section five hundred ninety-
5 five point nine (595.9), Code 1975, is amended
6 to read as follows:
7 595.9 VIOLATIONS. ~~If the clerk issues a~~
8 ~~license in violation of the provisions of section~~
9 ~~595.8, or if~~ If a marriage is solemnized without
10 ~~its being procured~~ procuring a license, the
11 ~~clerk so issuing the same, and~~ the parties married,
12 and all persons aiding them, are guilty of a
13 misdemeanor and shall be punished by a fine not
14 exceeding one hundred dollars, or by imprisonment
15 in the county jail not exceeding thirty days."

H-4167 FILED, ADOPTED (2244) BY BRANDT of Black Hawk
JUNE 11, 1975

H-4216

1 Amend Senate File 192, as passed by the Senate,
2 as follows:
3 Page 2, by inserting after line 10 the following:
4 "c. If a parent or guardian withholds consent,
5 the judge upon application of a party to a proposed
6 marriage shall determine if the consent has been
7 unreasonably withheld. If the judge so finds, the
8 judge shall proceed to review the application under
9 subsection b of this section."

H-4216 FILED - Adopted 6/13 (2253) BY OAKLEY of Clinton
JUNE 11, 1975

HOUSE AMENDMENT TO SENATE FILE 192

S-4264

1 Amend Senate File 192, as passed by the Senate
2 as follows:
3 1. Page 2, by inserting after line 10 the
4 following:
5 "c. If a parent or guardian withholds consent,
6 the judge upon application of a party to a proposed
7 marriage shall determine if the consent has been
8 unreasonably withheld. If the judge so finds, the
9 judge shall proceed to review the application under
10 subsection b of this section."
11 2. Page 2, by inserting after line 29 the
12 following new section:
13 "Sec. ____ . Section five hundred ninety-five
14 point nine (595.9), Code 1975, is amended to read
15 as follows:
16 595.9 VIOLATION. ~~If the clerk issues a license~~
17 ~~in violation of the provisions of section 595.8,~~
18 ~~or if~~ If a marriage is solemnized without ~~its being~~
19 ~~procured~~ procuring a license, the clerk so issuing
20 ~~the same, and~~ the parties married, and all persons
21 aiding them, are guilty of a misdemeanor and shall
22 be punished by a fine not exceeding one hundred
23 dollars, or by imprisonment in the county jail not
24 exceeding thirty days."

S-4264 FILED
JUNE 18, 1975

RECEIVED FROM THE HOUSE

*Senate Concurred 6/19/75
(2196)*

SENATE FILE 192

AN ACT

RELATING TO AGE REQUIREMENTS OF APPLICANTS FOR MARRIAGE
LICENSES, AND TO LEGITIMACY OF CHILDREN BORN OF
CERTAIN MARRIAGES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section five hundred ninety-five point two (595.2), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

595.2 AGE. A marriage between a male and a female each eighteen years of age or older is valid. A marriage between a male and a female either or both of whom have not attained that age may be valid under the circumstances prescribed in this section.

1. If either party to a marriage falsely represents himself or herself to be eighteen years of age or older at or before the time the marriage is solemnized, the marriage is valid unless the person who falsely represented his or her age chooses to void the marriage by making his or her true age known and verified by a birth certificate or other legal evidence of age in an annulment proceeding initiated at any time before he or she reaches his or her eighteenth birthday. A child born of a marriage voided under this subsection is legitimate.

2. A marriage license may be issued to a male and a female either or both of whom are sixteen or seventeen years of age if:

a. The parents of the underaged party or parties certify in writing that they consent to the marriage. If one of the parents of any underaged party to a proposed marriage is dead or incompetent the certificate may be executed by the other parent, if both parents are dead or incompetent the guardian of the underaged party may execute the certificate, and if the parents are divorced the parent having legal custody may

execute the certificate and

b. The certificate of consent of the parents, parent or guardian is approved by a judge of the district court or, if both parents of any underaged party to a proposed marriage are dead, incompetent or cannot be located and the party has no guardian, the proposed marriage is approved by a judge of the district court. A judge shall grant approval under this subsection only if he finds the underaged party or parties capable of assuming the responsibilities of marriage and that the marriage will serve the best interest of the underaged party or parties. Pregnancy alone does not establish that the proposed marriage is in the best interest of the underaged party or parties, however if pregnancy is involved the court records which pertain to the fact that the female is pregnant shall be sealed and available only to the parties to the marriage or proposed marriage or to any interested party securing an order of the court.

c. If a parent or guardian withholds consent, the judge upon application of a party to a proposed marriage shall determine if the consent has been unreasonably withheld. If the judge so finds, the judge shall proceed to review the application under subsection b of this section.

Sec. 2. Section five hundred ninety-five point three (595.3), subsection two (2), Code 1975, is amended to read as follows:

2. Where either party is under eighteen years of age, unless ~~a certificate of the consent of the parents is filed~~ the marriage is approved by a judge of the district court as provided by section five hundred ninety-five point two (595.2), subsection two (2), of the Code. ~~If one of the parents is dead such certificate may be executed by the survivor,--if either parent is incompetent or his presence is unknown, the judge of the district court having jurisdiction in the county may, after hearing, upon proper cause shown, execute such certificate.--if both parents are dead the guardian of a minor may execute the certificate but if the minor has no guardian then the judge of the district court~~

~~having-jurisdiction-in-the-county-may-after-hearing-upon
proper-cause-shown-execute-the-certificate---if-the-parents
are-divorced-the-parent-having-legal-custody-may-execute
the-certificate.~~

Sec. 3. Section five hundred ninety-five point nine (595.9), Code 1975, is amended to read as follows:

595.9 VIOLATIONS. ~~if-the-clerk-issues-a-license-in
violation-of-the-provisions-of-section-595.8-or-if~~ If a marriage is solemnized without its-being-~~procured~~ procuring a license, the-clerk-so-issuing-the-same,--and the parties married, and all persons aiding them, are guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days.

Sec. 4. Section five hundred ninety-five point eighteen (595.18), Code 1975, is amended to read as follows:

595.18 ISSUE LEGITIMATIZED. Illegitimate children become legitimate by the subsequent marriage of their parents. Children born of a marriage contracted in violation of sections five hundred ninety-five point three (595.3) or five hundred ninety-five point nineteen (595.19) of the Code are legitimate.

Sec. 5. Section five hundred ninety-five point eight (595.8), Code 1975, is repealed.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 192, Sixty-sixth General Assembly.

CLARK R. RASMUSSEN
Secretary of the Senate

Approved July 14, 1975

ROBERT D. RAY
Governor