

Sen. Judiciary 4/4/91 to Pass 4/10/91

DATE: MAR 21 1991

495

SENATE FILE  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 177)

Passed Senate, Date 4/2/91 (p. 978) Passed House, Date 4/16/91 (p. 1243)  
Vote: Ayes 48 Nays 2 Vote: Ayes 95 Nays 2  
Approved May 1, 1991 (p. 1598)

A BILL FOR

1 An Act relating to the ability of a mentally disabled person to  
2 obtain a marriage license or an annulment, and findings by  
3 the court in guardianship proceedings concerning capacity to  
4 contract a valid marriage.

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

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SF 495

1 Section 1. Section 229.27, subsection 1, Code 1991, is  
2 amended to read as follows:

3 1. Hospitalization of a person under this chapter, either  
4 voluntarily or involuntarily, does not constitute a finding of  
5 nor equate with nor raise a presumption of incompetency, nor  
6 cause the person so hospitalized to be deemed a person of  
7 unsound mind nor a person under legal disability for any  
8 purpose including but not limited to any circumstances to  
9 which sections 447.7, 472.15, 545.402, subsection 5, paragraph  
10 "b", 545.705, 595-37, 597.6, 598-29, 614.8, 614.19, 614.22,  
11 614.24, 614.27, 622.6, 633.244, and 675.21 are applicable.

12 Sec. 2. Section 595.3, subsection 5, Code 1991, is amended  
13 to read as follows:

14 5. Where either party is ~~mentally-ill-or-retarded,~~  
15 ~~mental-retardate,~~ or a ward under a guardianship as an  
16 incompetent and the court has made a finding that the ward  
17 lacks the capacity to contract a valid marriage.

18 Sec. 3. Section 598.29, subsection 4, Code 1991, is  
19 amended to read as follows:

20 4. Where either party was ~~mentally-ill-or-a-mental~~  
21 ~~retardate-at-the-time-of-the-marriage~~ a ward under a  
22 guardianship and was found by the court to lack the capacity  
23 to contract a valid marriage.

24 Sec. 4. Section 633.635, subsection 3, Code 1991, is  
25 amended to read as follows:

26 3. The court may take into account all available  
27 information concerning the capabilities of the ward and any  
28 additional evaluation deemed necessary, and may direct that  
29 the guardian have only a specially limited responsibility for  
30 the ward. In that event, the court shall state those areas  
31 of responsibility which shall be supervised by the guardian  
32 and all others shall be retained by the ward. The court may  
33 make a finding that the ward lacks the capacity to contract a  
34 valid marriage.

35 EXPLANATION

1 This bill changes a provision of the Code which prohibits  
2 persons who are mentally ill or retarded from obtaining a  
3 marriage license. The bill changes the restriction on  
4 obtaining a license to persons who are wards under a  
5 guardianship, whom the court has found lack the capacity to  
6 contract a valid marriage. The bill changes similar language  
7 concerning grounds for annulment. The bill further provides  
8 that in assigning responsibilities to a guardian, the court  
9 may make a finding that the ward lacks the capacity to  
10 contract a valid marriage.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

STURGEON, CH.  
PETERSON  
FUHRMAN

SSB 177

JUDICIARY

SENATE FILE 495  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON STURGEON)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the ability of a mentally disabled person to  
2 obtain a marriage license.

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

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

TLSB 2117SC 74

mc/sc/14

1 Section 1. Section 229.27, subsection 1, Code 1991, is  
2 amended to read as follows:

3 1. Hospitalization of a person under this chapter, either  
4 voluntarily or involuntarily, does not constitute a finding of  
5 nor equate with nor raise a presumption of incompetency, nor  
6 cause the person so hospitalized to be deemed a person of  
7 unsound mind nor a person under legal disability for any  
8 purpose including but not limited to any circumstances to  
9 which sections 447.7, 472.15, 545.402, subsection 5, paragraph  
10 "b", 545.705, 595-37, 597.6, 598.29, 614.8, 614.19, 614.22,  
11 614.24, 614.27, 622.6, 633.244, and 675.21 are applicable.

12 Sec. 2. Section 595.3, subsection 5, Code 1991, is amended  
13 by striking the subsection.

14 EXPLANATION

15 This bill deletes a provision of the Code which prohibits  
16 persons who are mentally ill or retarded, or under guardians  
17 as incompetent, from obtaining a marriage license.

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

SENATE FILE 495

AN ACT

RELATING TO THE ABILITY OF A MENTALLY DISABLED PERSON TO OBTAIN A MARRIAGE LICENSE OR AN ANNULMENT, AND FINDINGS BY THE COURT IN GUARDIANSHIP PROCEEDINGS CONCERNING CAPACITY TO CONTRACT A VALID MARRIAGE.

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

Section 1. Section 229.27, subsection 1, Code 1991, is amended to read as follows:

1. Hospitalization of a person under this chapter, either voluntarily or involuntarily, does not constitute a finding of nor equate with nor raise a presumption of incompetency, nor cause the person so hospitalized to be deemed a person of unsound mind nor a person under legal disability for any purpose including but not limited to any circumstances to which sections 447.7, 472.15, 545.402, subsection 5, paragraph "b", 545.705, 595-37, 597.6, 598-29, 614.8, 614.19, 614.22, 614.24, 614.27, 622.6, 633.244, and 675.21 are applicable.

Sec. 2. Section 595.3, subsection 5, Code 1991, is amended to read as follows:

5. Where either party is ~~mentally-ill-or-retarded~~ a ~~mental-retardate~~ or a ward under a guardianship as an incompetent and the court has made a finding that the ward lacks the capacity to contract a valid marriage.

Sec. 3. Section 598.29, subsection 4, Code 1991, is amended to read as follows:

4. Where either party was ~~mentally-ill-or-a-mental-retardate-at-the-time-of-the-marriage~~ a ward under a guardianship and was found by the court to lack the capacity to contract a valid marriage.

Sec. 4. Section 633.635, subsection 3, Code 1991, is amended to read as follows:

3. The court may take into account all available information concerning the capabilities of the ward and any additional evaluation deemed necessary, and may direct that the guardian have only a specially limited responsibility for the ward. In that event, the court shall state those areas of responsibility which shall be supervised by the guardian and all others shall be retained by the ward. The court may make a finding that the ward lacks the capacity to contract a valid marriage.

JOE J. WELSH  
President of the Senate

ROBERT C. ARNOULD  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 495, Seventy-fourth General Assembly.

JOHN F. DWYER  
Secretary of the Senate

Approved *May*, 1991

TERRY E. BRANSTAD  
Governor

SF 495