

FEB 8 1996  
Place On Calendar

HOUSE FILE 2183  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 561)

Passed House, <sup>(p.379)</sup> Date 2/20/96

Passed Senate, Date \_\_\_\_\_

Vote: Ayes 86 Nays 11

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the validity of certain marriages.

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

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

HF 2183

1 Section 1. Section 595.2, Code 1995, is amended to read as  
2 follows:

3 595.2 AGE -- GENDER.

4 1. A Only a marriage between a male and a female each  
5 eighteen-years-of-age-or-older is valid.

6 2. A Additionally, a marriage between a male and a female  
7 is valid only if each is eighteen years of age or older.

8 However, if either or both of whom the parties have not  
9 attained that age, the marriage may be valid under the  
10 circumstances prescribed in this section.

11 ~~1-~~ 3. If either party to a marriage falsely represents the  
12 party's self to be eighteen years of age or older at or before  
13 the time the marriage is solemnized, the marriage is valid  
14 unless the person who falsely represented their age chooses to  
15 void the marriage by making their true age known and verified  
16 by a birth certificate or other legal evidence of age in an  
17 annulment proceeding initiated at any time before the person  
18 reaches their eighteenth birthday. A child born of a marriage  
19 voided under this subsection is legitimate.

20 ~~2-~~ 4. A marriage license may be issued to a male and a  
21 female either or both of whom are sixteen or seventeen years  
22 of age if:

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

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

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

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

17 Sec. 2. Section 595.3, subsection 2, Code 1995, is amended  
18 to read as follows:

19 2. Where either party is under eighteen years of age,  
20 unless the marriage is approved by a judge of the district  
21 court as provided by section 595.27-subsection-2.

22 Sec. 3. NEW SECTION. 595.20 FOREIGN MARRIAGES --  
23 VALIDITY.

24 A marriage which is solemnized in any other state,  
25 territory, country, or any foreign jurisdiction which is valid  
26 in that state, territory, country, or other foreign  
27 jurisdiction, is valid in this state if the parties meet the  
28 requirements for validity pursuant to section 595.2,  
29 subsection 1.

30 EXPLANATION

31 This bill provides that only a marriage between a male and  
32 female is valid and that a marriage which is solemnized out-  
33 side of this state in a foreign jurisdiction is valid in this  
34 state if the requirements regarding gender of the parties to  
35 the marriage are met.

H-5095

1 Amend House File 2183 as follows:

2 1. Page 1, line 5, by inserting after the word  
3 "older" the following: "who intend to procreate or  
4 raise children".

5 2. Page 2, by inserting after line 21 the  
6 following:

7 "Sec. \_\_\_\_ . NEW SECTION. 595.4A. APPLICATION FOR  
8 LICENSE TO MARRY -- INTENT TO PROCREATE OR RAISE  
9 CHILDREN.

10 In addition to the information required to be  
11 included in a signed and verified application filed  
12 with the clerk prior to the issuance of a license to  
13 marry, the parties shall include an affidavit of some  
14 competent and disinterested person stating that the  
15 parties intend to procreate or to raise children  
16 during the course of the marriage."

17 3. By renumbering as necessary.

By FALLON of Polk

H-5095 FILED FEBRUARY 19, 1996

*withdrawn 2/20/96 (p. 375)*

HOUSE FILE 2183

H-5096

1 Amend House File 2183 as follows:

2 1. Page 2, line 29, by inserting after the figure  
3 "1" the following: "and if the marriage would not  
4 otherwise be declared void".

By GRUBBS of Scott

H-5096 FILED FEBRUARY 19, 1996

*adopted 2/20/96  
(p. 379)*

5-7/27/96 Judiciary

HOUSE FILE 2183  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 561)

(As Amended and Passed by the House, February 20, 1996)

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

**A BILL FOR**

1 An Act relating to the validity of certain marriages.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21

House Amendments \_\_\_\_\_

1 Section 1. Section 595.2, Code 1995, is amended to read as  
2 follows:

3 595.2 AGE -- GENDER.

4 1. A Only a marriage between a male and a female each  
5 eighteen-years-of-age-or-older is valid.

6 2. A Additionally, a marriage between a male and a female  
7 is valid only if each is eighteen years of age or older.

8 However, if either or both of whom the parties have not  
9 attained that age, the marriage may be valid under the  
10 circumstances prescribed in this section.

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

20 2- 4. A marriage license may be issued to a male and a  
21 female either or both of whom are sixteen or seventeen years  
22 of age if:

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

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

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

12 c. If a parent or guardian withholds consent, the judge  
13 upon application of a party to a proposed marriage shall  
14 determine if the consent has been unreasonably withheld. If  
15 the judge so finds, the judge shall proceed to review the  
16 application under paragraph "b" ~~of this subsection~~.

17 Sec. 2. Section 595.3, subsection 2, Code 1995, is amended  
18 to read as follows:

19 2. Where either party is under eighteen years of age,  
20 unless the marriage is approved by a judge of the district  
21 court as provided by section 595.2~~7~~-~~subsection-2~~.

22 Sec. 3. NEW SECTION. 595.20 FOREIGN MARRIAGES --  
23 VALIDITY.

24 A marriage which is solemnized in any other state,  
25 territory, country, or any foreign jurisdiction which is valid  
26 in that state, territory, country, or other foreign  
27 jurisdiction, is valid in this state if the parties meet the  
28 requirements for validity pursuant to section 595.2,  
29 subsection 1 and if the marriage would not otherwise be  
30 declared void.

31

32

33

34

35

*Grubbs, Chair*  
*Hurley*  
*Kreiman*

*HSB 561*

JUDICIARY

Succeeded By  
SF/HF 2183

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON HURLEY)

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

A BILL FOR

1 An Act relating to the validity of foreign marriages.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

1 Section 1. NEW SECTION. 595.20 FOREIGN MARRIAGES --  
2 VALIDITY.

3 A marriage which is solemnized in any other state,  
4 territory, country, or any foreign jurisdiction which is valid  
5 in that state, territory, country, or other foreign  
6 jurisdiction, is valid in this state if the parties meet the  
7 requirements for validity in section 598.2 and if the marriage  
8 would not be declared void pursuant to section 598.19.

9 EXPLANATION

10 This bill provides that a marriage which is solemnized out-  
11 side the state in a foreign jurisdiction is valid in the state  
12 if the requirements regarding age of the parties to the  
13 marriage are met and if the marriage would not be declared  
14 void under current Iowa law.

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35