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JUDICIARY

SENATE FILE 2187

BY McKIBBEN and McKEAN

(COMPANION TO HF 382

BY COMMITTEE ON JUDICIARY)

Passed Senate, Date _____ Passed House, 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:

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S.F. 2187

1 Section 1. Section 595.2, Code 1997, 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 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 595.2, subsection 2, Code 1997, 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, and if the marriage would not otherwise be
30 declared void.

31 EXPLANATION

32 This bill provides that only a marriage between a male and
33 a female is valid and that a marriage which is solemnized out-
34 side of this state in a foreign jurisdiction is valid in this
35 state if the requirements, including gender requirements, of

1 the parties to the marriage are met and the marriage would not
2 otherwise be void.

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