

House File 253 - Introduced

HOUSE FILE 253

BY MASCHER

A BILL FOR

1 An Act relating to eligible parties to a valid marriage.

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

1 Section 1. Section 595.2, Code 2015, is amended to read as
2 follows:

3 **595.2 ~~Gender — age~~ Eligible parties to a marriage — age.**

4 1. ~~Only a marriage between a male and a female is valid~~
5 A party who otherwise meets the requirements of this chapter
6 for a valid marriage is eligible to marry any other such party
7 regardless of gender.

8 2. ~~Additionally, a~~ A marriage between a male and a female
9 two eligible parties is valid only if each is eighteen years
10 of age or older. However, if either or both of the parties
11 have not attained that age, the marriage may be valid under the
12 circumstances prescribed in this section.

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

22 4. A marriage license may be issued to a male and a female
23 two eligible parties either or both of whom are sixteen or
24 seventeen years of age if both of the following apply:

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

33 b. The certificate of consent of the parents, parent, or
34 guardian is approved by a judge of the district court or,
35 if both parents of any underage party to a proposed marriage

1 are dead, incompetent, or cannot be located and the party has
2 no guardian, the proposed marriage is approved by a judge
3 of the district court. A judge shall grant approval under
4 this subsection only if the judge finds the underage party or
5 parties capable of assuming the responsibilities of marriage
6 and that the marriage will serve the best interest of the
7 underage party or parties. Pregnancy alone does not establish
8 that the proposed marriage is in the best interest of the
9 underage party or parties, however, if pregnancy is involved
10 the court records which pertain to the fact that the female is
11 pregnant shall be sealed and available only to the parties to
12 the marriage or proposed marriage or to any interested party
13 securing an order of the court.

14 5. If a parent or guardian withholds consent, the judge upon
15 application of a party to a proposed marriage shall determine
16 if the consent has been unreasonably withheld. If the judge so
17 finds, the judge shall proceed to review the application under
18 subsection 4, paragraph "b".

19 Sec. 2. Section 595.19, Code 2015, is amended to read as
20 follows:

21 **595.19 Void marriages.**

22 1. Marriages between the following persons who are related
23 by blood are void:

24 ~~a. Between a man and his father's sister, mother's sister,~~
25 ~~daughter, sister, son's daughter, daughter's daughter,~~
26 ~~brother's daughter, or sister's daughter.~~

27 ~~b. Between a woman and her father's brother, mother's~~
28 ~~brother, son, brother, son's son, daughter's son, brother's~~
29 ~~son, or sister's son.~~

30 a. Between a party and the party's aunt or uncle, child,
31 grandchild, sibling, niece, or nephew.

32 ~~c.~~ b. Between first cousins.

33 2. Marriages between persons either of whom has a husband
34 ~~or wife~~ spouse living are void, but, if the parties live and
35 cohabit together after the death or divorce of the former

1 ~~husband or wife~~ spouse, such marriage shall be valid.

2 Sec. 3. NEW SECTION. 595.21 **Marriage codification.**

3 Marriage is the legally recognized union of two eligible
4 parties. Terms relating to the marital relationship or
5 familial relationships shall be construed consistently with
6 this section for all purposes throughout the law, whether
7 in the context of statute, administrative or court rule,
8 government policy, common law, or any other provisions or
9 source of civil or criminal law.

10 EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill provides that a party who otherwise meets the
14 requirements of Code chapter 595 (marriage) for a valid
15 marriage is eligible to marry any other such party regardless
16 of gender.

17 The bill provides for conforming changes in that Code
18 chapter to include provisions relating to void marriages to be
19 gender neutral.

20 The bill also provides that marriage is the legally
21 recognized union of two eligible parties and that terms
22 relating to the marital relationship or familial relationships
23 shall be construed consistently with this provision for all
24 purposes throughout the law, whether in the context of statute,
25 administrative or court rule, government policy, common law, or
26 any other source of civil or criminal law.