# **10 DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**146 OFFICE OF DATA, RESEARCH AND VITAL STATISTICS**

**Chapter 6: MARRIAGE LICENSE AND REGISTRATION**

1. Definitions

A. Annulment. “Annulment” means the complete dissolution of a marriage, by civil court order, as though it had never occurred. No other form of annulment is valid as proof of dissolution.

B. Application. “Application” means the application or application/worksheet for marriage intentions as prescribed and furnished by the state registrar for the purpose of recording notice of intentions to marry.

C. Bride. “Bride” means a woman just married or about to be married.

D. Caution. “Caution” means a written notification that there may be an impediment to an intended marriage.

E. Certificate of Genetic Counseling. “Certificate of genetic counseling” means a statement signed by a physician certifying that counseling has been provided concerning the genetic problems which may occur in children born of a marriage between first cousins.

F. Certification Statement. “Certification statement” means the following: “I hereby certify that the information provided is correct to the best of my knowledge and belief and that I am free to marry under the laws of Maine.”

G. Ceremony. “Ceremony” means the solemnization of marriage by a duly authorized person, as specified by 19 M.R.S.A. § 62, in the presence of two witnesses.

H. Completed License. “Completed license” means a marriage license issued by a municipal clerk bearing signed certification statements by each party to the marriage, certifying that he or she is free to marry under the laws of the State of Maine. The completed license must also bear the signature of the municipal clerk authorizing the marriage.

I. Divorce. “Divorce” means the legal dissolution of a marriage by court decree.

J. Divorce Record. “Divorce record” means the original or certified copy of the divorce decree or a certified copy of an official record of the divorce judgment.

K. Groom. “Groom” means a man just married or about to be married.

L. Intentions. “Intentions” means the intentions of marriage notice application form or the intentions or marriage notice application/worksheet form as prescribed and furnished by the state registrar.

M. Intentions of Marriage Notice Application. “Intentions of Marriage Notice Application” means the form attached to the License and Certificate of Marriage as prescribed and furnished by the state registrar for the purpose of recording notice of intentions to marry.

N. Intentions of Marriage Notice Application Worksheet. “Intentions of marriage notice application/worksheet” means the form prescribed and furnished by the state registrar for recording notice, by mail, of intentions to marry or for use as a worksheet for preparing the intentions of marriage notice application.

O. Marriage Certificate. “Marriage certificate” means the duly completed and signed license following solemnization of the marriage.

P. Marriage License. “Marriage license” means the license, as prescribed and furnished by the state registrar, authorizing the marriage of the parties named upon it.

Q. Minor. “Minor” means a person under 18 years of age. An emancipated minor is not considered to be a minor for the purposes of this rule.

R. Municipal Clerk. “Municipal clerk” means the duly elected or appointed clerk of the cities, towns, or plantations where the notice(s) or marriage intentions is (are) required to be filed, the marriage license(s) issued, and the completed marriage certificate(s) returned, pursuant to 19 M.R.S.A. § 61, 62, and 121; and 22 M.R.S.A. § 2703, 2801, and 2802.

S. Notice. “Notice” means the intentions of marriage notice application form or the intentions of marriage notice application/worksheet form as prescribed and furnished by the state registrar for the purpose of recording notice of intentions to marry.

T. Officiant. “Officiant” means a person, duly authorized as specified in 4 M.R.S.A. §1056 and 19 M.R.S.A. § 1 and 121, who solemnizes a marriage or performs a marriage ceremony.

U. Parental Consent Form. “Parental Consent Form” means the form prescribed by the state registrar for recording the consent to the minor’s marriage by a minor’s parent(s) or guardian.

V. Time Periods. As used in this rule, the following time periods are delineated:

1. “3 days” - excludes the day on which the time period begins and any intermediate Saturday, Sunday or legal holiday.

2. “7 days”, “10 days”, “21 days” - excludes the day on which the time period begins. It includes Saturdays, Sundays, or legal holidays unless the 7th, 10th or 21st day falls on a Saturday, Sunday or legal holiday; in that case, the period ends on the next day which is not a Saturday, Sunday, or legal holiday.

3. “90 days” - excludes the day on which the time period begins, but includes all other days.

W. Witness. “Witness” means a person who has sufficient understanding or capacity to understand and attest to the veracity of a marriage ceremony.

2. Intentions

A. Certification Signed

1. Each individual intending to be joined in marriage within the State of Maine shall file written notice of these intentions with the clerk of the municipality specified in subsection B. All of the information specified on the intentions form shall be provided by the applicant. The intentions shall include a signed certification that the information recorded on the intentions notice is correct and that the applicant is free to marry according to the laws of Maine.

2. If intentions are filed in person, the intentions of marriage notice application form shall be used and the certification statement shall be witnessed by the municipal clerk.

3. If intentions are filed by mail, the intentions of marriage notice application/worksheet form shall be used. The applicant’s signature on the certification statement shall be witnessed by an official authorized to take oaths.

4. The intentions shall not be considered as filed until the required certification statement has been signed as specified in this subsection.

B. Where Intentions Are Filed

1. Each Maine resident shall file intentions in the municipality in which he or she resides.

2. If the parties reside in the same municipality, each shall sign the certification statement and file intentions form in the municipality of residence.

3. If only one of the parties is a Maine resident, intentions shall be filed in the municipality in which the resident party resides.

4. If neither party is a Maine resident, intentions shall be filed in the municipality in which the marriage ceremony is to take place.

5. If there is no clerk in the place where the parties reside, intentions shall be filed with the clerk of an adjoining town as specified in 22 M.R.S.A. § 2703.

C. Public Inspection

All intentions of marriage notices shall be open for public inspection in the office of the municipal clerk in which they are filed.

D. Cautions

1. Anyone who believes that persons are or may be attempting a prohibited marriage may file a caution, before or within 3 days after intentions are filed, with the clerk or clerks where intentions should be filed pursuant to subsection B above.

2. Cautions shall be written and shall clearly identify the parties involved, shall state the reason why the persons cannot marry, and shall be signed and acknowledged under oath.

3. A ruling by the probate judge from the county involved shall be obtained by the person filing the caution within 7 days after the caution is filed. If the probate judge needs more than 7 days to render a decision, the judge shall certify to the clerk or clerks that additional time is needed.

4. If a caution has been filed, the marriage license shall be withheld until the probate judge issues a ruling or until 7 days pass without action from the probate judge.

5. If the person filing the caution fails to seek a court ruling within 7 days or withdraws the caution, the marriage license shall not be withheld longer than 7 days.

6. If the probate judge rules that the caution is insufficient grounds for withholding the marriage license, the person filing the caution shall be responsible for the cost of the court hearing pursuant to 19 M.R.S.A. § 92.

E. Fees

The fee(s) for filing intentions of marriage, as specified in 30 M.R.S.A. § 2352, shall be paid at the time of filing.

3. License

A. License required

1. A valid Maine marriage license is required for a marriage to be solemnized in Maine.

2. A marriage license issued in Maine is void if not used within 90 days from the date intentions are filed in the office(s) of the municipal clerk(s).

3. If both parties to the intended marriage are non-residents, the license is valid only for the municipality in which it is issued.

B. Issuing Clerk

The clerk of each municipality in which intentions have been filed as specified in section 2, subsection B, shall issue a marriage license authorizing the marriage of the parties named in the intentions, providing the conditions specified in subsection C are satisfied.

C. Conditions for Issue

1. Intentions Filed

Intentions bearing the signed certification statement of each applicant shall be on file for 3 days. This applies to residents and nonresidents alike.

2. Certification Statements Signed

a. Each party to the intended marriage shall complete the license or licenses by appearing in person before the municipal clerk to sign the certification statement on the original and the State copy.

b. If intentions have been filed in two municipalities, each party shall appear in person in each municipality to complete each license by signing the certification statement on the original and the State copy.

c. If either of the parties to the marriage are incarcerated in a state correctional facility, the license may be issued without each original signature. The signature of the incarcerated person shall be obtained on the original copy at the time the ceremony is performed and shall be indicated on the state copy by entering the typed or printed name and “/s/” to signify that the original signature is on file at the municipal office where the license was issued.

3. Related Parties:

Parties related as described in 19 M.R.S.A. § 31, subsection 2 (i.e., “first cousins”) shall present a certificate of genetic counseling.

4. Parties under 18 Years of Age

a. Persons under 18 years of age shall present the written consent of their parents, guardians, or persons to whom a court has given custody.

b. If both parents are living and have joint custody, the written consent of each shall be presented.

c. In the absence of persons qualified to give consent, the Judge(s) of Probate in the county(ies) where the minor(s) reside(s) may grant consent, after notice and hearing.

d. When two licenses are required and when either or both applicants are under 18 years of age, the written consent either shall be given in the presence of the clerk of the municipality in which each minor resides and be recorded on the reverse side of the original marriage license or shall be recorded on a separate parental consent form, signed and witnessed by an official authorized to take oaths.

5. Parties under 16 Years of Age

a. Persons under 16 years of age shall satisfy all of the conditions specified in paragraph 4 of subsection C of this section.

b. The municipal clerk shall notify the Judge(s) of Probate in the county(ies) in which the minor(s) reside(s) and shall receive the probate judge’s written consent before issuing a license, except as provided by subparagraph c below.

c. If no written consent from the probate judge is received within 10 days after intentions have been filed, the license shall be issued.

d. If the probate judge so orders, no license shall be issued.

6. Previously Married Persons

a. Persons previously married shall present a certified copy of the death certificate of the deceased spouse or of the record of divorce or annulment.

b. Persons who have been widowed or divorced more than once need furnish only the certificate or record pertaining to their most recent spouse.

c. The clerk shall record on the reverse side of the intentions form the name of the deceased, date and place of death; or, in the case of divorce or annulment, the name of the former spouse, date when the decree became absolute, and the title and location of the court.

7. Nonresident Persons

Persons who reside and intend to continue to reside in another state shall present an affidavit stating that they are free to marry by the laws of the state in which they reside as well as under the laws of the State of Maine.

8. Caution Filed

If a caution has been filed, the license shall be issued only under the following conditions: a probate court ruling permitting the marriage has been received, the caution has been withdrawn, or 7 days have passed without further action by the person filing the caution. If the probate court judge certifies that further time is necessary, the license shall be withheld until the probate court judge has issued a decision.

D. License Issued

1. On or after the third day from the filing of intentions containing the signed certification statement, the clerk shall issue the marriage license to the parties intending to be joined in marriage.

2. The specified statistical information shall be entered on the marriage license form if it was not recorded at the time intentions were filed. Notwithstanding this paragraph, the license shall be issued even if the parties do not furnish the statistical information, provided that all of the pertinent conditions, as specified in subsection C of this section, have been met.

3. When satisfied that all of the requirements of law and rule have been met, the clerk shall sign the license authorizing the parties named on the license to be married under the laws of Maine.

4. The original license, and the place of marriage copy if applicable, shall be issued to the applicant parties. The state copy shall be retained by the municipal clerk for transmittal to the state registrar after the original has been returned to the clerk.

5. The license is valid for a period of 90 days from the date intentions are filed.

6. The license may be issued to either of the parties, providing that the certification statements on the license have been signed by each party.

7. The 3-day notice of intentions, as required by section 3.C.1 and paragraph 1 above, shall not apply in the following circumstances:

a. Either of the parties to the intended marriage has arrived as an immigrant from a foreign country within 3 days of the intended marriage date.

b. A court order waiving the 3-day waiting period is presented.

c. An authoritative request is received from a minister, clergyman, priest, rabbi, or attending physician stating that the death of either party is imminent.

4. Ceremony

A. Valid License

Completed, valid license(s), bearing the authorization(s) signed by the municipal clerk(s), as specified in sections 2.B and 3.D, shall be presented to the person who will solemnize the marriage.

B. Solemnization

1. The marriage shall be solemnized in the presence of at least two witnesses other than the officiant.

2. Upon completion of the solemnization ceremony, the date, place of marriage, and names of the two witnesses shall be recorded and the officiant and the two witnesses shall each sign the original license or licenses and the place of marriage copies, if applicable.

3. Pursuant to 4 M.R.S.A. § 954-A, notaries may not perform notarial acts, including marriage ceremonies, for relatives. However, the Department allows relatives to perform the actual marriage ceremony, providing a qualified officiant is present at the ceremony and signs the license or licenses as officiant and carries out the officiant’s responsibilities as specified in section 5.A below.

C. Marriage Certificate

After solemnization, the license or licenses shall be known as the marriage certificate or certificates.

5. Registration

A. Responsibility of Officiant

1. Before beginning to solemnize a marriage, the officiant shall insure that the license or licenses have not expired, that each license has been signed by both parties, and that the clerk(s) of the municipality or municipalities involved have signed the license or licenses authorizing the marriage to take place.

2. After the ceremony or solemnization has been completed, the officiant shall ensure that the “ceremony” section of each original marriage certificate, and the place of marriage copies if applicable, is completed by entering all of the required information:

a. date and place of marriage

b. typed or printed name and title of officiant

c. date officiant was ordained or authorized by a religious faith to perform marriages, the date a notary public’s commission expires, or the date a lawyer was admitted to the Maine Bar

d. residence and mailing address of officiant

e. typed or printed names of the two witnesses

f. original signatures of the officiant and each witness.

3. The original copy of the marriage certificates, or of each marriage certificate if two are required, shall bear the original signatures of each party to the marriage, the clerk(s) who issued the license(s), the officiant, and each of the two witnesses.

4. The officiant shall return each completed original certificate(s) to the issuing clerk(s) within 7 days following the solemnization.

5. If the marriage was solemnized in a municipality other than the place or places where the parties to the marriage reside, the officiant shall file a copy or copies of the marriage certificate(s) with the clerk of that municipality within 7 days following the solemnization.

6. The officiant shall make and keep a personal record of every marriage he or she solemnizes.

B. Responsibility of Issuing Clerk

1. The original copy of each completed marriage certificate returned shall be registered by the municipal clerk who issued the license, provided that all information and signatures have been entered as specified in subsection A above.

2. If information or signatures are missing, the clerk shall contact the officiant who shall obtain the needed information or signatures. If the officiant does not respond within 21 days, the issuing clerk shall report the matter to the state registrar for investigation.

3. When satisfied that all of the requirements of law and rule have been met, the clerk shall accept the certificate for filing, sign the original certificate as the registrar and enter the date on which it is registered or filed in the municipal office.

4. The clerk shall complete the state copy of the certificate as follows:

a. The “ceremony” information shall be copied from the original to the state copy.

b. Signatures in the ceremony section of the certificate shall be indicated on the state copy by entering the typed or printed name and “/s/” to signify that original signatures are on file at the municipal office(s) where the license or licenses were initially issued.

c. The clerk shall sign and date the state copy of the certificate.

d. The state copy shall be transmitted to the state registrar as part of the next monthly report, as specified in 22 M.R.S.A. § 2702(2).

5. Notwithstanding subsections 1,2, and 3 above, certificates returned to the issuing clerk without signatures of the witnesses may be accepted for filing during calendar year 1990. After December 31, 1990, certificates without the proper signatures shall be returned to the officiant for completion before they are accepted for filing.

C. Responsibility of Place of Marriage Clerk

1. Copies of completed certificates shall be filed with the clerk of the municipality where the solemnization took place if different from the issuing municipality or municipalities.

2. If information or signatures are missing, the clerk shall contact the issuing clerk(s) and enter the needed information or signatures when available from the issuing clerk. Signatures obtained after the place of marriage copy has been received shall be indicated by entering the typed and printed name and “/s/” to signify that the original signatures are on file at the municipal office(s) where the license or licenses were initially issued.

3. The place of marriage copy shall be filed only after all required information and signatures have been obtained.

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