

**Effective 9/1/2024**

**Part 4  
Validity of Marriage**

**81-2-401 Definitions for part.**

Reserved.

Enacted by Chapter 366, 2024 General Session

**81-2-402 Incestuous marriages void.**

- (1) The following marriages are incestuous and void from the beginning, regardless of whether the relationship is legally recognized:
- (a) a marriage between a parent and a child;
  - (b) a marriage between an ancestor and a descendant of any degree;
  - (c) a marriage between siblings of the half or whole blood;
  - (d) a marriage between an uncle and a niece or nephew;
  - (e) a marriage between an aunt and a niece or nephew;
  - (f) except as provided in Subsection (2), a marriage between first cousins; or
  - (g) except as provided in Subsection (2), a marriage between individuals related to each other within and not including the fifth degree of consanguinity computed according to the rules of the civil law.
- (2) First cousins may marry under the following circumstances:
- (a) both parties are 65 years old or older; or
  - (b) if both parties are 55 years old or older, upon a finding by the district court, located in the district in which either party resides, that either party is unable to reproduce.

Renumbered and Amended by Chapter 366, 2024 General Session

**81-2-403 Marriages prohibited and void.**

- (1) The following marriages are prohibited and declared void:
- (a) when there is a spouse living from whom the individual marrying has not been divorced;
  - (b) except as provided in Subsection (2), the individual marrying is under 18 years old; or
  - (c) between a divorced individual and any individual other than the one from whom the divorce was secured until:
    - (i) the divorce decree becomes absolute; and
    - (ii) if an appeal is taken, until after the affirmance of the divorce decree.
- (2) A marriage of an individual under 18 years old is not void if the individual:
- (a) is 16 or 17 years old and obtains consent from a parent or guardian and juvenile court authorization in accordance with Section 81-2-304; or
  - (b) lawfully marries before May 14, 2019.

Renumbered and Amended by Chapter 366, 2024 General Session

**81-2-404 Validation of a marriage to an individual subject to chronic epileptic fits who had not been sterilized.**

A marriage between two individuals that was not valid or legal before May 14, 1963, on the basis that a party was subject to chronic epileptic fits and had not been sterilized is considered valid and legal in this state.

Renumbered and Amended by Chapter 366, 2024 General Session

**81-2-405 Recognition and validation of a marriage regardless of the race, ethnicity, or national origin of the parties.**

(1) As used in this section:

- (a) "Eligible couple" means two individuals that may legally marry each other in this state.
- (b) "Specified characteristic" means the race, ethnicity, or national origin of a party to the marriage.

(2) Regardless of the date of the marriage, a marriage between two individuals may not be deemed invalid or prohibited because of a specified characteristic.

(3) The office of a county clerk may not refuse to issue a marriage license to an eligible couple because of a specified characteristic.

(4)  
(a) The office of a county clerk may not refuse to solemnize the marriage of an eligible couple because of a specified characteristic.

- (b) Subsection (4)(a) does not prevent a county clerk from delegating or deputizing another individual to solemnize a marriage in accordance with Sections 17-70-302 and 81-2-305.

Amended by Chapter 17, 2025 Special Session 1

**81-2-406 Validation of a marriage to an individual with acquired immune deficiency syndrome or other sexually transmitted disease.**

A marriage between two individuals that was not valid or legal before October 21, 1993, on the basis that a party was afflicted with acquired immune deficiency syndrome, syphilis, or gonorrhea, is considered valid and legal in this state.

Renumbered and Amended by Chapter 366, 2024 General Session

**81-2-407 Validity of a foreign marriage -- Exceptions.**

A marriage solemnized in any other country, state, or territory, if valid where solemnized, is valid in this state, unless:

- (1) the marriage would be prohibited and declared void in this state under Subsection 81-2-403(1) (a); or
- (2) the marriage is between parties who are related to each other within and including three degrees of consanguinity, except as provided in Subsection 81-2-402(2).

Renumbered and Amended by Chapter 366, 2024 General Session

**81-2-408 Validity of marriage not solemnized or solemnized before an unauthorized individual.**

(1) A marriage that is not solemnized according to this chapter is legal and valid if a court or administrative order establishes that the marriage arises out of a contract between two individuals who:

- (a) are of legal age and capable of giving consent;

- (b) are legally capable of entering a solemnized marriage under the provisions of this chapter;
  - (c) have cohabited;
  - (d) mutually assume marital rights, duties, and obligations; and
  - (e) who hold themselves out as and have acquired a uniform and general reputation as spouses.
- (2)
- (a) A petition for an unsolemnized marriage shall be filed during the relationship described in Subsection (1), or within one year following the termination of that relationship.
  - (b) Evidence of a marriage recognizable under this section may be:
    - (i) manifested in any form; and
    - (ii) proved under the same general rules of evidence as facts in other cases.
- (3)
- (a) A marriage solemnized before an individual professing to have authority to perform marriages may not be invalidated for lack of authority if consummated in the belief of the parties or either party that the person had authority and that the parties have been lawfully married.
  - (b) Except as otherwise explicitly provided by law, Subsection (3)(a) may not be construed to validate a marriage that:
    - (i) is prohibited or void under Section 81-2-403; or
    - (ii) fails to meet the requirements of Section 81-2-302, as validated by a court with jurisdiction.

Renumbered and Amended by Chapter 366, 2024 General Session

**81-2-409 Legal recognition of a child when marriage is void.**

When a marriage is void under Subsection 81-2-403(1)(a) and the parties entered into the marriage in good faith, a child of the marriage, who is born or conceived before the parties had actual knowledge that the marriage was void, shall be legally recognized as the child of the parties.

Renumbered and Amended by Chapter 366, 2024 General Session