

APPROVAL REQUIRED FOR MARRIAGE OF A MINOR

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Carl R. Saunders

AN ACT RELATING TO HUSBAND AND WIFE; MODIFYING SECTION TO ADDRESS CONSENT OF DIVORCED PARENTS FOR MARRIAGE OF A MINOR; REQUIRING CONSENT TO BE GIVEN IN PERSON; DEFINING MINOR; CHANGING THE CONDITIONS UNDER WHICH A PERSON UNDER THE AGE OF 18 MAY MARRY; AND MAKING TECHNICAL AMENDMENTS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

30-1-2, as last amended by Chapter 14, Laws of Utah 1993, Second Special Session

30-1-9, as last amended by Chapter 144, Laws of Utah 1992

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **30-1-2** is amended to read:

30-1-2. Marriages prohibited and void.

The following marriages are prohibited and declared void:

(1) when there is a husband or wife living, from whom the person marrying has not been divorced;

(2) when the male or female is under 18 years of age unless consent is obtained as provided in Section 30-1-9;

(3) when the male or female is under 14 years of age or, beginning May 3, 1999, when the male or female is under 16 years of age at the time the parties attempt to enter into the marriage, however exceptions may be made for a person 15 years of age, under conditions set in accordance with Section 30-1-9;

(4) between a divorced person and any person other than the one from whom the divorce was secured until the divorce decree becomes absolute, and, if an appeal is taken, until after the affirmance of the decree; and

(5) between persons of the same sex.

Section 2. Section **30-1-9** is amended to read:

30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court authorization.

(1) For purposes of this section, "minor" means a male or female under 18 years of age.

~~[(1)]~~ (2) (a) If at the time of applying for a license the [male or the female is under 18 years of age] applicant is a minor, and not before married, a license may not be issued without[:(a)] the signed consent of [his or her] the minor's father, mother, or guardian [personally] given [or certified] in [writing] person to the clerk [over his or her signature; and]; however:

(i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;

(ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

(b) [if under 16] If the male or female is 15 years of age, the minor and their parent or guardian shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides[. The written authorization may also be obtained from]; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

~~[(2)]~~ (3) (a) Before issuing written authorization for a minor to marry, the judge [shall ascertain] or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily[.]; and

(ii) the marriage is in the best interests of the minor under the circumstances.

(b) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling. This requirement may be waived if premarital counseling is not reasonably available.

(c) The judge or court commissioner may require:

(i) that the person continue to attend school, unless excused under Section 53A-11-102; and

(ii) any other conditions that the court deems reasonable under the circumstances.

~~[(3)]~~ (4) The determination ~~[of voluntariness]~~ required in Subsection (3) shall be made on the record. Any inquiry conducted by the judge or commissioner may be conducted in chambers.