

APPENDIX

State Statutes Re Marriage of the Insane, Feeble-Minded,
Epileptic, Tubercular Persons and Drunkards

State Statutes Regulating Marriage of Venereally Diseased
Persons

Laws Regulating Miscegenous Marriages

STATE STATUTES RE MARRIAGE OF THE INSANE,
FEEBLE-MINDED, EPILEPTIC, TUBERCULAR^{OUS}
PERSONS AND DRUNKARDS

Arkansas

State Statutes of 1921.

ch. 116. sec. 7041. When either of the parties to a marriage shall be incapable from want of age or understanding, of consenting to any marriage...the marriage shall be void from the time its nullity shall be declared by a court or competent jurisdiction.

ch. 116. sec. 7061. Any person applying for a license under the provisions of this chapter shall be required to enter into bond to the state of Arkansas in the penal (sum) of one hundred dollars, for the use and benefit of the common school fund of such county, conditioned that the parties applying therefor have a lawful right to the same, and that they will faithfully carry into effect and comply with the provisions thereof. Said bond shall be signed by at least one other person besides the applicants. Such bond shall be void when the license is duly returned to the office of the county clerk, duly executed and officially signed by some one authorized by law to solemnize the rites of matrimony.

ch. 116. sec. 7065. If any clerk of any county in this State shall issue any license contrary to the provisions of this act, or to any persons who are declared by law as not entitled to the same, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars.

ch. 116. sec. 7066. Any person who shall presume to solemnize marriage in this State contrary to the provisions of this chapter...shall be adjudged guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars.

California

State Statutes of 1935.

Sec. 69. No license must be granted when either of the parties, applicants therefor, is an imbecile, or insane.For the purpose of ascertaining all the facts mentioned or required in this section, the clerk, at the time the license is applied for may, if he deems it necessary in order to satisfy himself as to matters in this section enumerated, examine the applicants for a license on oath, which examination shall be reduced to writing by the clerk, and subscribed by them.

Connecticut

Revised General Statutes of 1930.

Sec. 5150. All marriages where one or both parties are citizens of this state, celebrated in a foreign country in conformity with the law of that country, shall be valid, provided each party would have legal capacity to contract such marriage in this state.....

Sec. 6275. Every man and woman, either of whom is epileptic, imbecile or feeble-minded, who shall intermarry, or live together as husband and wife, when the woman is under forty-five years of age, shall be imprisoned not more than three years.

Sec. 6276. Any person who shall advise, aid, abet, cause or assist in procuring the marriage of any person in violation of the provisions of section 6275, knowing such person to be epileptic, imbecile or feeble-minded, shall be fined not more than one thousand dollars or imprisoned not more than five years or both.

Sec. 6277. Any man who shall carnally know any female under the age of forty-five years who is epileptic, imbecile, feeble-minded or a pauper shall be imprisoned not more than three years. Any who is epileptic who shall carnally know any female under the age of forty-five years, and any female under the age of forty-five years who shall consent to be carnally known by any man

who is epileptic, imbecile or feeble-minded, shall be imprisoned not more than three years.

Delaware

State Statutes of 1921.

Ch. 182. Sec. 2992:1. ...It shall be unlawful for an epileptic or a person of any degree of unsoundness of mind, or for a person who is venereally diseased, or a person who is suffering from any communicable disease the nature of which is unknown to the other party to the proposed marriage, to marry, nor shall a person marry who is an habitual drunkard or who is a confirmed user of a narcotic drug...or has been a patient in an insane asylum, unless such person shall first file with the Clerk of the Place to whom he makes application for a marriage license a certificate signed by the superintendent of the asylum in which such person is or was a patient, stating that such person is fit to marry...Every ...marriage forbidden by this section shall be voidable at the instance of the innocent party, and the guilty party thereto, or if both parties be guilty, then both shall be deemed to have committed a misdemeanor and shall be fined one hundred dollars, and in default of the payment of such fine shall be imprisoned not exceeding thirty days...If any person authorized to issue a

marriage license shall knowingly or wilfully issue a license for such marriage, and if any person authorized to solemnize marriage, shall knowingly or wilfully assist in the contracting or the solemnizing of such marriage, he shall be deemed to be guilty of a misdemeanor, and shall be fined one hundred dollars, and in default of the payment of such fine shall be imprisoned not exceeding thirty days. If a marriage prohibited by this section shall be contracted or solemnized outside of the State, when the legal residence of either party to the marriage is in this State, and the parties thereto shall afterwards live and cohabit as husband and wife within the State, they shall each be deemed guilty of a misdemeanor, and shall be punished in the same manner as though the marriage had been contracted in this State.

Ch. 182. Sec. 2994:4. All marriage licenses, other forms and books used in connection with the issuance of marriage licenses shall be furnished by the Secretary of State on request of the Clerks of the Peace of the several counties to the said Clerks of the Peace, except that the State Board of Health shall supply post cards to officers authorized to issue marriage licenses, such cards to be used as notices to the Bureau of Vital Statistics of the issuance of each marriage license; and the superintendents of asylums for the insane shall supply certificates in whatever form they see fit to such persons as

they believe should receive them under the provisions of this chapter...No Justice of the Peace in the State of Delaware may sell a marriage license to applicants when both parties to the proposed marriage are non-residents of the State or when either applicant is...or has been a patient of any insane asylum...Clerks of the Peace shall examine and satisfy themselves of the validity of papers submitted to them by...past or present patients of insane asylums...and shall file such papers in the office of the County Recorder of the appropriate county. Such papers shall constitute a part of the application for marriage license, but shall be open to inspection of the public only upon order of the resident judge of the proper county, or such person as the judge may appoint to give such orders. Any clerk of the Peace or deputy of such or any Justice of the Peace, who shall knowingly or wilfully act in violation of the provisions of this chapter, shall be deemed guilty of misdemeanor and shall be fined one hundred dollars and in default of payment of such fine shall be imprisoned not exceeding thirty days.

Sec. 2997:6 (Marriage application, in part, to be attested by signatures of both applicants)

And each party did further depose and say that, to the best of his knowledge and belief he is not:

Of a prohibited degree of relationship, an epileptic; of any degree of unsoundness of mind; venereally

diseased; suffering from any other communicable disease the nature of which is not known to the other party; an habitual drunkard; and is not a confirmed user of a narcotic drug.

Sec. 2999:8 If any person applying for a license under this chapter shall knowingly make false answer to any of the inquiries of the person issuing the license, after having been sworn or affirmed to answer truly, he or she shall be deemed to be guilty of perjury, and if any person executing a paper or papers under the provisions of this chapter is deemed to be guilty of perjury, and if any person executing a paper or papers under the provisions of this chapter shall execute it or them falsely, he shall be deemed to be guilty of a misdemeanor and shall upon conviction thereof be subject to such penalties as shall be imposed by the court in its discretion. Every person authorized by this chapter to issue licenses is empowered to administer oaths or affirmations to the parties applying for the license.

Georgia

Georgia Code of 1933.

Ch. 53. Sec. 102. To be able to contract marriage, a person must be of sound mind;...

Ch. 53. Sec. 104. Marriages of persons unable to con-

tract...shall be void. The issue of such marriages, before they are annulled and declared void by a competent court, shall be legitimate.

Ch. 53. Sec. 214. All marriages solemnized in another state by parties intending at the time to reside in this state shall have the same legal consequences and effects as if solemnized in this state. Parties residing in this State may not evade any of the provisions of its laws as to marriage by going into another State for the solemnization of the marriage ceremony.

Ch. 53. Sec. 9901. If any minister of the gospel, judge, or justice of the peace shall join together in matrimony any man and woman...where either of the parties within his own knowledge shall be an idiot or lunatic..he shall be guilty of a misdemeanor.

Idaho

Idaho Code of 1932.

Title 31. Sec. 406. If any minister or officer shall presume to solemnize any marriage between parties with knowledge that either party is legally incompetent to contract matrimony as is provided for by the laws of this state, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than \$200 before any court having jurisdiction.

Title 64. Sec. 601. There is hereby established and constituted for the State of Idaho a "State Board of Eugenics", which shall be composed of the state public health advisor, the superintendent of northern Idaho sanitarium, the superintendent of the Idaho state school and colony, at Nampa, the superintendent of the Idaho insane asylum, the superintendent of the Idaho industrial training school and the warden of the penitentiary, whose duties shall be as herein defined. The state public health advisor of Idaho shall serve as secretary of said board, and the members of said board shall serve without compensation.

Title 64. Sec. 603. It shall be the duty of the state board of eugenics to examine into the innate traits, the mental and physical conditions, the personal records and the family traits and histories of all of the persons so reported, so far as the same can be ascertained, and for this purpose said board shall have the power to subpoena witnesses, which subpoena shall be issued by said board and served in like manner and with like effect as subpoenas in criminal cases in the district court, and any member of said board may administer an oath to any witness whom it is desired to examine in such proceedings; and if in the judgment of a majority of said board procreation by such person would produce a child or children having an inherited tendency to

feeble-mindedness, insanity or epilepsy, criminality or degeneracy, or who would probably become a social menace or ward of the state, and there is no probability that the condition of such person, so investigated and examined will improve to such an extent as to avoid such consequences, then it shall be the duty of such board to make an order embodying its conclusions with reference to such person in said respects and ordering that the operation of vasectomy be performed upon such persons, if a male person, and the operation of salpingectomy be performed upon such person, if a female person.

Title 31. Sec. 209. All marriages contracted without this state, which would be valid by the laws of the country in which the same were contracted, are valid in this state.

Title 31. Sec. 305. The person solemnizing the marriage may administer oaths and examine the parties and witnesses for the purpose of satisfying himself that the contracting parties are qualified under the requirements of that department.

Title 31. Sec. 403. ...Any county recorder who shall issue a license to marry to parties, one or both of whom shall not be, at the time of marriage under such license, legally competent to marry, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of \$100.00 before any court having jurisdiction.

Title 31. Sec. 501. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

3. That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife;

Title 31. Sec. 502. An action to obtain a decree of nullity of marriage, for causes mentioned in the preceding section, must be commenced within the periods and by the parties as follows:

3. For causes mentioned in subdivision three; by the party injured, or relative or guardian of the party of unsound mind, at any time before the death of either party.

Title 31. Sec. 603. Divorces may be granted for any of the following causes:

7. When either the husband or wife has become permanently insane, as provided in sections 31-803 to 31-805, inclusive, of this code.

Illinois

Revised Statutes of 1935.

Ch. 89. par. 2. No insane person or idiot shall be capable of contracting marriage.

Ch. 89. par. 6. ...For the purpose of ascertaining the

...legality of the contemplated marriage, the county clerk shall obtain an affidavit of the party applying for the license (who must be one of the parties to the contemplated marriage) and such county clerk may, if he deems proper, obtain the affidavit of both parties to the contemplated marriage, and of any other person making any such affidavit above mentioned who shall wilfully and knowingly swear falsely as to any material matter in any such affidavit...the county clerk is thereby induced to issue a marriage license permitting persons to be joined in marriage who are legally incapable or who have not the right to be joined in marriage, shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment.

Ch. 89. par. 13. If any county clerk shall knowingly issue a license for the marriage of persons who are legally incapable of contracting a marriage, he shall be deemed guilty of a misdemeanor, and upon conviction, be punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each and every offense.

ch. 89. par. 20. sec. 1. Be it enacted by the People of State of Illinois, represented in the General Assembly: That if any person residing and intending to continue to

reside in this State and who is disabled or prohibited from contracting marriage under the laws of this State shall go into another state or country and there contract a marriage prohibited and declared void by the laws of this state, such marriage shall be null and void for all purposed in this state with the same effect as though such prohibited marriage had been entered into in this state.

ch. 89. par. 21. No marriage shall be contracted in this state by a party residing and intending to continue to reside in another state or jurisdiction if such marriage would be void if contracted in such other state or jurisdiction and every marriage celebrated in this state in violation of this provision shall be null and void.

ch. 89. par. 22. Before issuing a license to marry a person who resides and intends to continue to reside in another state the officer having authority to issue the license shall satisfy himself by requiring affidavits or otherwise that such person is not prohibited from intermarrying by the laws of the jurisdiction where he or she resides.

Indiana

Burns Indiana Statutes of 1933.

ch. 10. sec. 4201. Whoever, unlawfully, ...has carnal knowledge of a woman, other than his wife, which woman

is insane, epileptic, idiotic, feeble-minded, ... is guilty of rape in the first degree, and, on conviction, shall be imprisoned in the state prison for not less than five (5) nor more than twenty-one (21) years: Provided, further, That in cases where the female upon whom the crime is committed is a child under the age of twelve (12) years, the punishment shall be imprisonment in the state prison for life.

A person who perpetrates an act of sexual intercourse with a female not his wife, under the age of eighteen (18) years, under circumstances not amounting to rape in the first degree, is guilty of rape in the second degree, and on conviction, shall be punished by imprisonment in the state prison for not less than one (1) year nor more than ten (10) years.

ch. 10. sec. 4203. Whoever, being a woman over the age of eighteen (18) years and under the age of fifty (50) years, shall consent to be carnally known by any male person over the age of fourteen (14) years, other than her husband, which male person is an epileptic, imbecile, feeble-minded or insane, and known to be such by such woman, shall be guilty of a felony, and, on conviction, shall be imprisoned in the Women's Prison not less than two (2) years nor more than twenty-one (21) years.

ch. 44. sec. 104. (9862) The following marriages are declared void:

3. When either party is insane or idiotic at the time of such marriage.

ch. 44. sec. 204. Every clerk of the circuit court who shall issue any license contrary to the provisions of this act shall forfeit and pay to the state of Indiana for the use of common schools any sum that in the discretion of a jury shall seem right, to be recovered in an action of debt, in the name of the state, and it is made the duty of the prosecuting attorneys, within their respective circuits, to prosecute all such suits...

ch. 44. sec. 207. No license to marry shall be issued where either of the contracting parties is an imbecile, epileptic, of unsound mind, or under guardianship as a person of unsound mind, nor to any male person who is or has been within five (5) years an inmate of any county asylum or home for indigent persons, unless it satisfactorily appears that the cause of such condition has been removed and that such male applicant is able to support a family and likely to so continue, nor shall any license issue when either of the contracting parties is afflicted with a transmissible disease, or, at the time of making application, is under the influence of an intoxicating liquor or narcotic drug.

ch. 44. sec. 208. In those cases where the right to a license is not made to appear, the clerk shall refuse to issue same. At once, upon such refusal, he shall certify the proceeding to the circuit court without formality

or expense to the applicants, who shall be notified by him of such action. Such application shall thereupon be, at the earliest practicable time, heard by the circuit judge without a jury, in court or in chambers, during the term or in vacation, as the case may be, and his finding that a license ought to issue or ought not to issue shall be final and the clerk shall act in accordance therewith, the true intent of this section being to secure for the applicants a hearing by said judge without affirmative action by said applicants, and to give notice to them of such hearing, its time and place, without delay or expense.

ch. 44. sec. 209. If persons, resident of this state, with intent to evade the provisions of...(44:207), go into another state and there have their marriage solemnized with the intention of afterwards returning and residing in this state, and do so return and reside in this state, such marriage shall be void, and such parties, upon returning to this state, shall be subject to all penalties provided for in this act: Provided, This section shall not apply to persons who in good faith become or are citizens of any other state.

ch. 44. sec. 210. Whoever procures the issuance of a license to marry by any false statement, representation or pretense shall be fined in any sum not exceeding five hundred dollars (\$500).

ch. 44. sec. 211. (9879). Whoever being duly authorized to solemnize marriages in this state, knowingly joins in marriage persons who have not complied with the statute relative to the procurement of marriage licenses, shall be fined in any sum not exceeding five hundred dollars.

ch. 44. sec. 212. (9880). Every clerk of the circuit court who shall issue any license contrary to the provisions of this act shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars.

ch. 22. sec. 1507. The board of state charities is hereby authorized to consent to the return of insane, feeble-minded or epileptic persons, and other dependents to the state of Indiana who have a legal settlement within the state of Indiana. The clerk of the circuit court of the proper county shall receive insane or epileptic persons returned to Indiana and care for them, or cause them to be cared for, until they can be received into the proper institution. The township overseer of the poor shall receive feeble-minded persons...returned to Indiana under the provisions of this act, and care for them in the manner provided by law.

ch. 22. sec. 1601. (Act of 1927). Whenever the superintendent of any hospital or other institution of this state, or of any county in this state, which has the care or custody of insane, feeble-minded or epileptic persons, shall be of the opinion that it is for the best interests of

the patient and of society that any inmate of the institution under his care should be sexually sterilized, such superintendent, if a lawfully licensed surgeon, is hereby authorized to perform, or cause to be performed by some capable physician or surgeon, an operation or treatment of sterilization on any patient confined in such institution afflicted with hereditary forms of insanity that are recurrent, idiocy, imbecility, feeble-mindedness or epilepsy: Provided, that such superintendent shall have first complied with the requirements of this act.

Iowa

Code of 1935.

ch. 174. sec. 3501. All patients shall be discharged immediately on regaining their sanity, and the superintendent shall issue duplicate certificates of full recovery, one of which he shall deliver to the recovered patient, and the other of which he shall forward to the clerk of the district court of the county from which the patient was committed.

ch. 469. sec. 10429. Previous to the solemnization of any marriage, a license for this purpose must be obtained from the clerk of the district court of the county wherein the marriage is to be solemnized. Such license must not be granted in any case:

5. Where either party is an idiot, imbecile, insane, or under guardianship as incompetent.

ch. 469. sec. 10430. When an application for a license is made the clerk shall require at least one affidavit from some competent and disinterested person stating such facts as to age and qualification of the parties as the clerk may deem necessary to determine the competency of the parties to contract a marriage.

ch. 469. sec. 10431. If the clerk is acquainted with the age and qualification of the parties, he may execute, in lieu of said affidavit, a certificate stating such facts, and that he knew the parties to be competent to contract a marriage.

ch. 469. sec. 10445-a 1. The board of contral shall furnish quarterly to each clerk of the district court lists of all persons then living and over fourteen years of age who are or who have been inmates of state institutions for the insane or feeble-minded, or who have been committed to the guardianship of the board as feeble-minded, except persons whose competency to marry shall subsequently have been established by judicial proceedings, or who have been discharged as cured under sections 3501 and 3506, together with the names of such other persons as are, within the knowledge of the board, disqualified for marriage under paragraph 5 of section 10429.

ch. 469. sec. 10445-a3. No clerk shall issue any marriage license to any applicant without first satisfying himself that the name of neither party to the marriage is contained in the latest list furnished by the board of control.

ch. 469. sec. 10445-a4. Any person aggrieved by such refusal to grant a license may by petition bring proceedings in the district court of the county of his residence to have his competency to enter into the marriage relation established.

ch. 469. sec. 10445-a5. Petitioner shall cause notices of the filing of said petition to be served on the state board of control in the manner required for the service of original notice at least ten days before the date set for the hearing of said petition.

ch. 469. sec. 10445-a6. The board of control shall have the right to appear and contest the allegations of said petition in behalf of the state.

ch. 469. sec. 10445-a7. The trial shall be as an equitable proceeding.

ch. 469. sec. 10445-a8. Either party may appeal from the decree rendered to the supreme court as in proceedings in equity.

ch. 469. sec. 10445-a9. If on hearing, decree be entered in favor of the aggrieved party, such license may be issued in order of the court.

ch. 471. sec. 10486. Marriage may be annulled for the following causes:

4. Where either party was insane or idiotic at the time of the marriage.

Kansas

State Statutes of 1933.

ch. 23. art. 120. No woman under the age of forty-five years, or man of any age, except he marry a woman over the age of forty-five years, either of whom is epileptic, imbecile, feeble-minded or afflicted with insanity, shall hereafter intermarry or marry any other person within this state. It shall be unlawful for any person to marry such feeble-minded, imbecile or epileptic person, or anyone afflicted with insanity. Children born after a parent was insane shall not marry except under the above-named conditions, unless the parent or parents of such children shall have been discharged from the state hospital for insane or any other legally constituted institution for the treatment of the insane more than nine months before the birth of the child, as cured and remained cured for a period of twenty years after such discharge.

ch. 23. art. 121. No officer authorized by law to issue marriage licenses in this state shall hereafter issue such a license to any persons either of whom is afflicted with any of the diseases mentioned in section one of this act,

knowing them to be so afflicted, unless the female party to such marriage is over the age of forty-five years, but said officer shall in all cases ask of the party applying for a marriage license and require him to make answer thereto in writing under oath of the following question: Have you or has the person you are expecting to marry ever been afflicted with epilepsy, imbecility, feeble-mindedness, or insanity?

ch. 23. art. 122. No clergyman or officer authorized by law to solemnize marriages within this state shall hereafter perform a marriage ceremony uniting persons in matrimony either of whom is afflicted with epilepsy, imbecility, feeble-mindedness, or insanity, knowing them to be so afflicted, unless the female party to such marriage is over the age of forty-five years.

ch. 23. art. 123. Any persons knowingly violating any of the provisions of this act shall upon conviction thereof be punished by a fine of not more than one thousand dollars, or by imprisonment in the state's prison for nor more than three years, or by both such fine and imprisonment.

ch. 60. art. 1515. When either of the parties to a marriage shall be incapable, from want of age or understanding, of contracting such marriage, the same may be declared void by the district court, in an action brought by the incapable party...cohabitation after such incapa-

city ceases shall be sufficient defense to any such action.

Kentucky

Official Statutes of 1930.

ch. 66. sec. 2097. Marriage is prohibited and declared void:

1. With an idiot or lunatic.

ch. 66. sec. 2101. When persons, residents in this commonwealth, shall marry in another state, such marriage shall be valid here if valid in the state where solemnized.

ch. 66. sec. 2111. If any authorized person shall knowingly, with or without license, solemnize a marriage such as is herein prohibited, he shall be imprisoned not less than one nor more than twelve months, or fined not exceeding one thousand dollars (\$1000.00), or both.

ch. 66. sec. 2112. A clerk who shall knowingly issue a license for any prohibited marriage, shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), and expelled from his office by the judgment of the court before which conviction is had...If the license is issued by a deputy or other person, he shall be fined not exceeding one thousand dollars (\$1,000.00), and in the case of prohibited marriages, shall be imprisoned not more than one year or

both.

ch. 66. sec. 2115. Where doubt is felt as to the validity of a marriage, either party may, by petition in equity, demand its avoidance or affirmance;...

ch. 16. sec. 216 aa-50. It shall be unlawful to aid or abet the marriage of any feeble-minded person or to attempt, or to aid or abet an attempt to, the marriage of an idiot or lunatic and any person found guilty of a violation of this provision shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

Louisiana

Louisiana Criminal Code of 1932.

1158. Any person who shall unlawfully and carnally know any female idiot, or insane, or imbecile woman or girl, knowing her to be so, shall, on conviction, be punished by imprisonment in the state penitentiary at hard labor for not more than ten years.

Maine

Revised Statutes of 1930.

ch. 72. sec. 2. No insane or feeble-minded person or idiot is capable of contracting marriage.

ch. 72. sec. 8. Any person, believing that parties are about to contract marriage when either of them cannot law-

fully do so, may file a caution and the reasons therefor, in the office of the clerk where notice of their intentions should be filed. Then if either party applies to enter such notice, the clerk shall withhold the certificate, until a decision is made by two justices of the peace, approving the marriage, after due notice to, and hearing all concerned; provided, that the person filing the caution, shall, within seven days thereafter, procure the decision of such justices, unless they certify that further time is necessary for the purpose. In which case a certificate shall be withheld until the expiration of the certified time. He shall, finally, deliver or withhold the certificate in accordance with the final decision of said justices. If the decision is against the sufficiency, the justices shall enter judgment against the applicant for costs, and issue execution therefor.

ch. 72. sec. 9. When residents of this state, with intent to evade the provisions of sections one, two and three of this chapter, and to return and reside here, go into another state or country, and there have their marriage solemnized, and afterwards return and reside here, such marriage is void in this state.

ch. 72. sec. 14. Whoever contracts a marriage, or makes false representations to procure the certificate provided for..., or the solemnization of marriage contrary to this chapter shall forfeit one hundred dollars. Whoever know-

ingly and wilfully joins persons in marriage contrary to this chapter, shall be punished by a fine of one hundred dollars, and such offender is forbidden to join any persons in marriage thereafter.

Any town clerk who makes out and delivers to any person a false certificate of the entery of the intention of marriage, knowing it to be false in any particular, shall be punished by a fine of one hundred dollars or by imprisonment for six months.

ch. 73. sec. 15. When the validity of a marriage is doubted, either party may file a libel as for divorce; and the court shall decree it annulled or affirmed, according to the proof; but no such decree affects the rights of a libelee, unless he was personally notified to answer or did answer to the libel.

Massachusetts

General Law of 1932

ch. 207. sec. 5. An insane person, an idiot, or a feeble-minded person under commitment to an institution for the feeble-minded, to the custody or supervision of the department of mental diseases, or to an institution for mental defectives, shall be incapable of contracting marriage. The validity of a marriage shall not be questioned by reason of the insanity, idiocy or of the feeble-mindedness aforesaid of either party in the trial of a collateral issue, but shall be raised only in the process instituted in the lifetime of both parties to test such validity.

ch. 207. sec. 10. If any person residing and intending to continue to reside in this commonwealth is disabled or prohibited from contracting marriage under the laws of this commonwealth and goes into another jurisdiction and there contracts a marriage prohibited and declared void by the laws of this commonwealth, such marriage shall be null and void for all purposes in this commonwealth with the same effect as though such prohibited marriage had been entered into in this commonwealth.

ch. 207. sec. 11. No marriage shall be contracted in this commonwealth by a party residing and intending to continue to reside in another jurisdiction if such

marriage would be void if contracted in such other jurisdiction, and every marriage contracted in this commonwealth in violation hereof shall be null and void.

ch. 207. sec. 14. If the validity of a marriage is doubted either party may file a libel for annulment of such marriage, or if it is deemed or doubted by either party, the other party may file a libel for affirming the marriage. Such libel shall be filed in the same manner as libel for divorce, and all the provisions of chapter two hundred and eight relative to libels for divorce shall, so far as appropriate, apply to libels under this section. Upon proof of the validity or nullity of the marriage, it shall be affirmed or declared void by a decree of the court, and such decree of nullity may be made although the marriage was solemnized out of the commonwealth, if at that time and also when the libel was filed the libellant had his domicile in the commonwealth, or if he has resided in this commonwealth for five years last preceding the filing of said libel, unless the court finds that he has removed into this commonwealth for the purpose of obtaining said decree.

ch. 207. sec. 20. The clerk or registrar shall require written notice of intention of marriage, on blanks furnished by him, containing...a statement of absence of any legal impediments to the marriage, to be given him under oath, by both parties to such intended marriage if both

dwell in his town, or, if the parties dwell in different towns within the state, or if one dwells outside the state, by the party dwelling in his town, or, if both dwell outside the state by both parties; provided, that if a registered physician makes affidavit to the satisfaction of the clerk or registrar that a party so required is unable, by reason of illness to appear, such notice may be given on behalf of such party, by his or her parent or legal guardian, or, in case there is no parent or legal guardian competent to act, by the physician certifying to the illness, or by the older party irrespective of such other party's residence. The oath to such notice shall be to the truth of all statements contained therein whereof the party subscribing the same could have knowledge, and may be given before the clerk or registrar or before a regularly employed clerk in his office designated by him in writing and made a matter of record in the office. No fee shall be charged for administering such an oath.

ch. 207. sec. 37. The state secretary shall furnish to the clerk or registrar of every town a printed list of all legal impediments to marriage, and the clerk or registrar shall forthwith post and thereafter

maintain it in a conspicuous place in his office.
ch. 207. sec. 52. Whoever violates any provision of section twenty or of section thirty-seven, and whoever falsely swears or affirms in making any statement required under section twenty shall be punished by fine or imprisonment at the discretion of the court.

Michigan

Compiled Laws of 1929

ch. 244. sec. 12695. No insane person, idiot...shall be capable of contracting marriage...No person who has been confined in any public institution or asylum as an epileptic, feeble-minded, imbecile or insane patient, or who has been adjudged insane, feeble-minded, an epileptic or an imbecile by a court of competent jurisdiction shall be capable of contracting marriage without, before the issuance by the county clerk of the license to marry, filing in the office of the said county clerk a verified certificate from two (2) regularly licensed physicians of this state that such person has been completely cured of such insanity, epilepsy, imbecility, or feeble-mindedness and that there is no probability that such person will transmit any of such defects or disabilities to the issue of such marriage. Any person of sound mind who shall intermarry with such insane person or idiot or person who has been

so confined as an epileptic, feeble-minded, imbecile, or insane patient who has been so adjudged insane, feeble-minded, an epileptic or an imbecile, except upon the filing of certificate as herein provided, with knowledge of the disability of such person, or who shall advise, aid, abet, cause, procure or assist in procuring any such marriage contrary to the provisions of this section shall be deemed guilty of a felony and on conviction thereof in any court of competent jurisdiction shall be punished by a fine of not more than one thousand (1,000) dollars or by imprisonment in the state prison at Jackson not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment in the discretion of the court.

ch. 244. sec. 12697. All justices of the peace and ministers of the gospel are hereby authorized and required, before solemnizing any marriage, to examine at least one (1) of the parties on oath, which oath they are hereby authorized to administer, as to the legality of such intended marriage.

ch. 244. sec. 12713:8. Any person applying for a marriage license who shall swear to a false statement therein, shall be guilty of perjury, and shall be prosecuted therefor under the general laws of the state.

ch. 245. sec. 12754:35. A bill to annul a marriage on

the ground of insanity or idiocy, may be exhibited by any person admitted by the court to prosecute as the next friend of such idiot or lunatic.

ch. 245. sec. 12755:36. The marriage of a lunatic may be so declared void, upon the application of the lunatic, after the restoration of reason; but, in such case no sentence of nullity shall be pronounced, if it shall appear that the parties freely cohabited as husband and wife, after the lunatic was restored to a sound mind.

ch. 244. sec. 21700. If any person shall undertake to join others in marriage, knowing of any legal impediment to the proposed marriage, he shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail not more than one (1) year, or by a fine not less than fifty (50) nor more than five hundred (500) dollars, or by both such fine and imprisonment at the discretion of the court.

Minnesota

State Statutes of 1927

ch. 70. sec. 8564. No marriage shall be contracted... between persons either one of whom is epileptic, imbecile, feeble-minded or insane.

ch. 70. sec. 8567. Every person authorized by law to

perform the marriage ceremony, before solemnizing any marriage, may examine the parties on oath, which oath he is authorized to administer, as to the legality of such intended marriage, and no such person shall solemnize a marriage unless he is satisfied that there is no legal impediment thereto.

ch. 70. sec. 8569. The clerk shall examine upon oath the party applying for a license, relative to the legality of such contemplated marriage, and, if satisfied that there is no legal impediment thereto, he shall issue such license, with his official seal attached, and make a record thereof...Any clerk who shall knowingly issue or sign a marriage license in any other manner than in this section provided, shall forfeit and pay for the use of the parties aggrieved not to exceed one thousand dollars.

ch. 70. sec. 8575. If any person authorized by law to join persons in marriage shall knowingly solemnize any marriage contrary to the provisions of this chapter, or wilfully make any false certificate of any marriage or pretended marriage, he shall forfeit for every such offense a sum not exceeding five hundred dollars, or may be imprisoned not exceeding one year.

ch. 71. sec. 8581. When either party to a marriage is incapable of assenting thereto for want of age or understanding,...and there is no subsequent voluntary

cohabitation of the parties, the marriage may be annulled at the suit of the injured party, and shall be void from the time its nullity is so adjudged.

ch. 71. sec. 8583. ...nor shall the marriage of any insane person be adjudged void after his restoration to reason, if it appears that the parties freely cohabited together as husband and wife after such restoration.

ch. 71. sec. 8584. No marriage shall be adjudged a nullity at the suit of the party capable of contracting, on the ground that the other party was...idiotic or insane, if such idiocy or insanity was known to the party capable of contracting at the time of such marriage.

ch. 71. sec. 8585. A divorce from the bonds of matrimony may be adjudged by the district court for any of the following causes:

7. Incurable insanity, etc.

Mississippi

Code of 1927

ch. 50. sec. 2728. Marriage licenses shall be granted and issued by the clerk of the circuit court of the county in which the female usually resides, under the following regulations and restrictions: The clerk shall take from the person who applies for the license an affidavit that there is no legal cause to obstruct the

the marriage for which such license is granted, which he shall preserve as a record of his office...And if any clerk shall issue a marriage license without the requisites prescribed, or any other manner than above mentioned, he shall upon conviction, be punished as for a misdemeanor.

ch. 21. sec. 1479. Divorce from the bonds of matrimony may be decreed to the injured party for the following causes, viz.:

Eighth--Insanity or idiocy at the time of the marriage, if the party complaining did not know of such infirmity.

Missouri

Revised Statutes of 1929

ch. 20. sec. 2974. All marriages between...persons either of whom is insane, mentally imbecile, feeble-minded or epileptic, are prohibited and declared absolutely void; and it shall be unlawful for any city, county or state official having authority to issue such marriage licenses to the persons heretofore designated, and any such official who shall issue such licenses to the persons aforesaid knowing such persons to be within the prohibition of this section shall be deemed guilty of a misdemeanor; and this prohibition shall apply to persons born out of lawful wedlock as well as those in lawful wedlock.

ch. 30. sec. 4264. Every person who shall solemnize any marriage, having knowledge...or reasonable cause to believe that either of the parties...is insane, mentally imbecile, feeble-minded or epileptic,...on conviction be adjudged guilty of a misdemeanor, and be punished by imprisonment in the county jail not exceeding one year, or by a fine not less than five hundred dollars, or by both such fine and imprisonment.

Montana

Revised Code of 1935

ch. 4. sec. 5707. All marriages contracted without this state, which would be valid by the laws of the country in which the same were contracted, are valid in this state.

ch. 4. sec. 5714. If, on such testimony being given, it shall appear that either of the parties is legally incompetent to enter into such a contract, or that there is any impediment in the way...the said county clerk shall refuse to grant a license.

ch. 4. sec. 5715. In case of application for a marriage license, which may be made by any party, or his or her agent or attorney, the clerk of the district court may, in his discretion, require that the necessary information be given under oath, and he is hereby authorized to ad-

minister oaths to such applicants for such purpose...

ch. 5. sec. 5729. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

3. That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband and wife.

ch. 5. sec. 5730. An action to obtain a decree of nullity of marriage,...must be commenced within the periods and by the parties, as follows:

3...By the party injured, or relative or guardian of the party of unsound mind, at any time before the death of either party.

Nebraska

Compiled Statutes of Nebraska of 1929

ch. 42. art. 102. ...No person who has been adjudged an imbecile, or a feeble minded person or a person who is or has been adjudged afflicted with hereditary epilepsy or hereditary insanity shall marry in this state, until after he or she has submitted to an operation for sterilization.

ch. 42. art. 103. Marriages are void:

2nd. When either party is insane or an idiot at the time of marriage. The term "idiot" shall include all

persons who from whatever cause are mentally incompetent to enter into the marriage relation.

Case in point: Absolute inability to contract, insanity or idiocy, but not mental weakness alone, will make marriage void.

Aldrich v. Steen 71 N. 33 (98 N.W. 445; 100 N. W. 311)

ch. 42. art. 107. If, on such testimony being given, it shall appear that either of the parties is legally incompetent to enter into such contract, or that there is any impediment in the way...the said judge shall refuse to grant a license.

ch. 42. art. 113. ...if any person shall undertake to join others in marriage,...knowing of any legal impediment to the proposed marriage...he shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars, or imprisonment for a period not exceeding one year.

ch. 42. art. 117. All marriages contracted without this state, which would be valid by the laws of the country in which the same were contracted, shall be valid in all courts and places in this state.

ch. 42. art. 331. A bill to annul a marriage on the ground of insanity or idiocy may be exhibited by any person admitted by the court to prosecute as the next

friend to such idiot or lunatic.

ch. 42. art. 332. The marriage of a lunatic may also be declared void upon the application of the lunatic, after the restoration of reason, but in such case no sentence of nullity shall be pronounced if it shall appear that the parties freely cohabited as husband and wife after the lunatic was restored to a sound mind.

Nevada

Revised Laws of 1912

sec. 2348:12. If any person shall undertake to join others in marriage, knowing...to any legal impediment to the proposed marriage, he shall on conviction be fined in any sum not exceeding five hundred dollars, and be imprisoned in the territorial prison until such fine is paid.

sec. 2355:19. When either of the parties to the marriage, for want of age or understanding, shall be incapable of assenting thereto,...and there shall have been no subsequent voluntary cohabitation of the parties, the marriage shall be void from the time of its nullity shall be declared by a court of competent authority.

2356:20. ...nor shall the marriage of any insane person be adjudged void, after his restoration to reason, if it shall appear that the parties freely cohabited

together as husband and wife after such insane person was restored to reason.

sec. 2357:21. When a marriage is supposed to be void, or the validity thereof is disputed, for any of the causes mentioned in the two preceding sections, either party may file a complaint in the probate court of the county where the parties or one of them resided, for annulling the same; and such complaint shall be filed, and proceedings shall be had thereon, as in the case of the proceedings in said court for a divorce, and upon due proof of the nullity of the marriage, it shall be adjudged null and void.

New Hampshire

Public Laws of 1926

ch. 286. sec. 10. No woman under the age of forty-five years, or man of any age, except he marry a woman over the age of forty-five years, either of whom is epileptic, imbecile, feeble-minded, idiotic or insane, shall hereafter intermarry or marry any other person within this state.

ch. 286. sec. 11. No clergyman, or other officer authorized to solemnize marriage, shall perform a marriage ceremony prohibited by the preceding section.

ch. 286. sec. 12. No town clerk or other authorized officer shall issue a certificate for such prohibited marriage.

ch. 286. sec. 13. Should any question arise as to whether an applicant for such certificate is so disqualified, the contracting parties shall apply to the state board of health which shall thereupon appoint some qualified person or persons to determine whether the contracting parties are epileptic, imbecile, feeble-minded, idiotic or insane, such determination to be certified under oath.

ch. 286. sec. 14. It shall be the duty of all superintendents of schools and of all who have charge of instruction in private schools or state schools annually in July to file with the state board of health the names of all epileptics, imbeciles, feeble-minded, idiotic and insane persons who have left school or have become fourteen years of age during the preceding year. It shall be the duty of the superintendent of the Laconia state school and of the New Hampshire state hospital to file with the state board of health the names of all such persons discharged or paroled from those institutions. The names thus reported shall not be made public except as is necessary for the public welfare.

ch. 286. sec. 15. It shall be the duty of the town clerk or other authorized officer when application is

made for a certificate for the marriage of any person born subsequent to June 1, 1900, suspected as an epileptic, imbecile, feeble-minded, idiotic or insane to cause the application to be forwarded for inspection to the state board of health. The state board of health after investigation shall return the application to the town clerk or other authorized officer and if it finds that a certificate may not legally be granted it shall so notify the clerk and the applicants for the license. ch. 286. sec. 16. Any person who knowingly violates any of the provisions of this subdivision shall be fined not less than fifty nor more than five hundred dollars, or imprisoned not more than thirty days, or both.

Special Session of January 1929.

14. ...sections 10 to 16 of chapter 286 of the Public Laws shall not apply to those who have been sterilized. the names of inmates of state institutions who have been sterilized shall be forwarded to the state board of health by the superintendents of the institutions and such record shall not be open to public inspection.

New Jersey

Cumulative Supplement to Compiled Statutes of New Jersey
1911-1924.

ch. 123. sec. 21. ...no license to marry shall be is-

sued when either of the contracting parties, at the time of making the application...is an imbecile, epileptic, or of unsound mind, nor shall any such license be issued to any person who is or has been an inmate of any insane asylum or institution for indigent persons, unless it appears that such person has been satisfactorily discharged from such asylum or institution.

ch. 123. sec. 23.5. Before any assessor, registrar or clerk shall issue any marriage license, ...he shall require the contracting parties to appear and subscribe and swear to an oath or affirmation attesting the truth of the proposed marriage, which testimony shall be verified by a witness of legal age, residing in the municipality in which the license is issued and he shall issue the said license only if it shall be thus made to appear before him that no legal impediment to such marriage exists...any assessor, registrar or clerk who shall issue and license, except as provided for in this act, shall be guilty of a misdemeanor.

ch. 123. sec. 27. If any person applying for license under this act shall knowingly make false answer to any of the inquiries asked by the assessor, registrar or clerk, he or she shall be deemed guilty of perjury, and shall, upon conviction thereof, be subject to the penalties imposed therefor by the laws of the State.

Every assessor, registrar and clerk, or their deputy, authorized by this act to issue marriage licenses is hereby empowered to administer oaths or affirmations to the parties applying for the license, and also to the identifying witness or witnesses.

ch. 128. sec. 28. ...Any person or persons authorized to solemnize marriages are also empowered to administer oaths or affirmations to the parties applying to be married, and to require them, or either of them, to make true answers to any inquiries he or they may make of them, or either of them, in order to ascertain whether in his or their judgment any legal impediment to the proposed marriage exists; and any person wilfully making false answers to any such inquiries shall be deemed guilty of perjury, and upon conviction be subject to the penalty imposed therefor by the laws of this State, provided, such answer or answers be reduced to writing and signed by the party making the same and attached to the marriage certificate.

ch. 123. sec. 35. Any penalty incurred under any of the provisions of this act may be recovered with costs, in an action of debt by and in the name of the local board of health of the municipality where the marriage occurred, or by and in the name of the Board of Health of the State of New Jersey.

New York

Consolidated Laws of 1936, McKinney's

Domestic Relations Law

22. Any town or city clerk who shall violate any of the provisions of this article or shall fail to comply therewith shall be deemed guilty of a misdemeanor and shall pay a fine not exceeding the sum of one hundred dollars on conviction thereof.

17. A clergy man performing a marriage ceremony is not required to investigate the qualifications of the parties farther than to ascertain that the proper license has been issued to them, which by section 18 fully protects him provided he does not have personal knowledge of the incompetency of either party.

Consolidated Laws of 1916, McKinney's

Domestic Relations Law

1:7. A marriage is void from the time its nullity is declared by a court of competent jurisdiction if either party thereto:

2. Is incapable of consenting to a marriage for want of understanding.

North Carolina

Code of 1935

ch. 30. sec. 1658. The superior court in term time,

on application made as by law provided, by either party to a marriage contracted contrary to the prohibitions contained in the chapter entitled marriage, or declared void by said chapter, may declare such marriage void from the beginning, subject, nevertheless, to the proviso contained in said chapter.

ch. 50. sec. 2495. ...no marriage followed by cohabitation and the birth of issue shall be declared void after the death of either of the parties for any of the causes stated in this section.

ch. 50. sec. 2500a. No license to marry shall be issued by the registrar of deed of any county to a male applicant therefor except upon the presentation of a certificate executed within seven days from the time of the presentation of said certificate to the registrar of deeds showing...that the applicant has not been adjudged by a court of competent jurisdiction an idiot, imbecile, or of unsound mind. No license shall be issued to any female applicant who shall not present a certificate showing that she has not been adjudged by a court of competent jurisdiction to be of unsound mind.

ch. 50. sec. 2500c. Any registrar of deeds who issues a license to marry without the presentation of the certificate provided for in the preceding sections, or contrary to the provisions of this law, shall be guilty of

a misdemeanor, and upon conviction shall be fined not less than two hundred dollars or imprisoned for thirty days in the discretion of the court.

ch. 50. sec. 2500d. Any physician who shall knowingly and willfully make false statement in the certificate hereinabove provided for shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two hundred dollars, or imprisoned for not more than six months.

ch. 50. sec. 2503. Every registrar of deeds who knowingly or without reasonable inquiry personally or by deputy, issues a license for the marriage of any two persons to which there is any lawful impediment...shall forfeit and pay two hundred dollars to any parent, guardian, or other person standing in loco parentis, who sues for the same.

North Dakota

Compiled Laws of 1913

Civil Code.

ch. 4. sec. 4366. All marriages contracted outside of this state, which are valid according to the laws of the state or country where contracted, shall be valid in this state.

ch. 4. sec. 4368. A marriage may be annulled by an

action in the district court to obtain a decree of nullity for any of the following causes existing at the time of the marriage.

3. When either party was of unsound mind, unless such party after coming to reason freely cohabits with the other as husband or wife.

ch. 4. sec. 4369. An action to obtain a decree of nullity for causes mentioned in the preceding section, must be commenced within the periods and by the parties as follows:

3. ...by the party injured, or a relative or guardian of the party of unsound mind at any time before the death of either party.

ch. 5. sec. 4373. No woman under the age of forty five years, or man of any age, except he marry a woman over the age of forty five years, either of whom is a common drunkard, habitual criminal, epileptic, imbecile, feeble minded person, idiot or insane, or person who has theretofore been afflicted with hereditary insanity, or is afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, shall hereafter intermarry or marry any other person within the state.

ch. 5. sec. 4374. No clergyman or other officer authorized by law to solemnize marriages within this state

shall hereafter perform a marriage ceremony uniting persons in matrimony, either of whom is an epileptic, imbecile, feeble minded person, common drunkard, insane person, habitual criminal or person afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, unless the female party to such marriage is over the age of forty five.

ch. 5. sec. 4375. The county judges, before a marriage license is issued, shall require each applicant therefor to file in his office upon blanks provided by the county for that purpose, an affidavit of at least one duly licensed physician other than the person seeking the license, showing that the contracting parties are not feeble minded, imbeciles, or persons afflicted with pulmonary tuberculosis in its advanced stages, provided, that in addition, the affidavit as to the male contracting party shall show that such male is not afflicted with any contagious venereal disease. He shall also require an affidavit of some disinterested, credible person, showing that said persons are not habitual criminals; ...Such affidavit may be subscribed and sworn to before any person authorized to administer oaths. Anyone knowingly swearing falsely to the statements contained in the affidavit mentioned in this article shall be deemed guilty of perjury and punished as provided by

the laws of the state of North Dakota.

ch. 5. sec. 4378. Any person violating any of the provisions of this article, or any person knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this act, shall be punished by a fine of not less than fifty dollars or more than five hundred dollars, or by imprisonment in the county jail not over thirty days or by both such fine and imprisonment.

Ohio

General Code of 1931

Title 3. ch. 6. sec. 11187. No license shall be granted when either of the parties, applicants therefore, is an habitual drunkard, epileptic, imbecile, or insane.

sec. 11193. If a judge, in any other manner, issues or signs a marriage license, he shall forfeit and pay a sum not exceeding one thousand dollars, to and for the use of the party aggrieved.

Oklahoma

Revised Laws of 1910

ch. 60. sec. 4974. When either party to a marriage shall be incapable, from want...of understanding, of contracting such marriage, the same may be declared

void by the district court, in an action brought by the incapable party or by the parent or guardian of such party; but the children of such marriage, begotten before the same is annulled, shall be legitimate. Cohabitation after such incapacity ceases, shall be a sufficient defense to any such action.

ch. 45. sec. 3892. If the judge or clerk of the county court before whom application for a marriage license is made shall be in doubt of the legal capacity of the parties for whose marriage a license is sought, to enter into the marriage relation, such judge or clerk shall require additional evidence to that contained in the application, and may swear and examine witnesses or require affidavits in proof of the legality of such marriage, and unless satisfied to the legality thereof, he shall not issue a license therefor.

(Penalties for unlawful issuance of license and solemnization of ceremony seem to be limited to bigamous, incestuous, and miscegenous marriages).

Oregon

6:903. When either of the parties to a marriage shall be incapable of making such contract or assenting thereto, for want of ... sufficient understanding, or when the consent of either party shall be obtained by

force or fraud, such marriage shall be void from the time it is declared by the decree of a court having jurisdiction thereof.

6:905. A marriage shall not be declared void for any of the causes specified in section 6:903, except at the suit or claim of the party laboring under the disability, or upon whom the force or fraud was imposed or practiced; nor at the suit or claim of the such party if it appears that the parties freely cohabit together as husband and wife after the party had acquired sufficient understanding, been restored to reason, freed from force, or discovered the fraud, as the case may be.

6:906. When either husband or wife shall claim or pretend that the marriage is void or voidable, as provided in sections 6:902, 6:903, the same may be declared valid and lawful at the suit of the other; and in such suit the court shall have power, if the pleadings and proofs authorize it, to declare such marriage void from the beginning, or from the time of the decree, or that it is valid and lawful, and binding on the parties thereto.

6:907. The dissolution of the marriage contract may be declared at the suit or the claim of the injured party in either of the following cases.

7. Permanent insanity, where the defendant has been adjudged insane by legal authorities of Oregon, or

any other state, and such insanity has been continuous since such adjudication for at least five years, and the person has been confined in either a private or a public institution upon the grounds of insanity for the major portion of the five years immediately preceding the commencement of the suit, and where it appears to the satisfaction of the court by competent evidence that the disease is incurable; provided, that no decree of divorce shall be granted unless there shall be presented to the court as evidence a certified copy of the order of adjudication of insanity; and provided further, that the prevailing party shall not succeed to any property rights of the insane spouse, notwithstanding the provision of section 6912, Oregon Code.

6:909. When a marriage has been solemnized in this state, a suit may be maintained to declare it void if the plaintiff is an inhabitant of the state at the commencement of the suit. If the marriage has not been solemnized in this state, a suit may be maintained to declare it void if the plaintiff therein be an inhabitant of the state at the commencement of the suit and for one prior thereto, which residence shall be sufficient to give the court jurisdiction.

14:839. Any person who shall undertake...to...join persons in marriage contrary to the provisions of this act, shall, upon conviction thereof, be punished by

imprisonment in the penitentiary or the county jail not more than one year, or by a fine of not more than \$500 or less than \$100.

14:838. Any clerk who shall issue a license contrary to the provisions of this act shall, upon conviction thereof, be punished by imprisonment in the penitentiary or county jail not more than one year, or by a fine of not more than \$500 or less than \$100.

Pennsylvania

Pennsylvania Statutes of 1936

Title 48. sec. 6. The clerk of the courts shall furnish magistrates, aldermen, or justices of the peace, at the cost of the proper county, all necessary blanks for acknowledgments and affidavit herein required. And if any clerk of any of said courts shall in any other manner issue or sign any marriage license, or if any magistrate, alderman or justice of the peace shall willfully make any false return to the clerk of the court, he shall forfeit and pay any sum not exceeding one thousand dollars, to and for the use of the party aggrieved.

Title 44. sec. 10. Any fine or forfeiture arising to the county, or any party, person, or persons, in consequence of the violation of any of the preceding

sections of this act, shall be recovered by an action of debt, in the name of said party, or persons, or county, as plaintiffs, in the same manner as other debts are recoverable by law, with the usual costs, in any court of record in any county of this commonwealth, in which the defendant or defendants shall be found.

Title 48. sec. 13. Such application shall contain a statement...that neither of the contracting parties is afflicted with a transmissible disease,...

Title 23. sec. 12. In all cases where a supposed or alleged marriage shall have been contracted, which is absolutely void...for any...lawful reason, the said supposed or alleged marriage was absolutely void when contracted, such supposed or alleged marriage, may, upon the application of either party, be declared null and void, in accord with the principles and forms hereinafter prescribed for cases of divorce from the bond of matrimony.

Title 48. sec. 15. No license to marry shall be issued where either of the contracting parties is an imbecile, epileptic, of unsound mind, or under guardianship as a person of unsound mind; nor to any male person who is or has been within five years, an inmate of county asylum or home for indigent persons, unless it satisfactorily appears that the cause of such condition has been removed,

and that such male applicant is physically able to support a family;...

Title 48. sec. 16. In those cases, when the right to a license is not made to appear, the clerk shall refuse the same. At once, upon such refusal, he shall certify the proceeding to the proper orphans' court, without formality or expense to the applicants, who shall be notified by him of such action. Such application shall thereupon be, at the earliest practicable time, heard by the judge of said court, without a jury, in court or in chambers, during the term or in vacation, as the case may be; and his finding that a license ought to issue or ought not to issue shall be final, and the clerk shall act in accordance therewith; the true intent of this section being to secure for the applicants a hearing by said judge, without affirmative action by said applicants, and to give notice to them of such hearing, its time and place, without delay or expense.

Rhode Island

General Laws of 1923

ch. 287. sec. 4459. All marriages when either of the parties...shall be an idiot or lunatic at the time of such marriage, shall be absolutely void; and no dower shall be assigned to any widow in consequence of such

marriage, and the issue shall be deemed illegitimate and be subject to all the disabilities of such issue.

ch. 291. sec. 4212. Divorces from the bond of marriage shall be decreed in case of any marriage originally void or voidable by law....

South Carolina

Code Laws of 1933

ch. 164. sec. 8556. All persons, except idiots and lunatics, not prohibited by this section, may lawfully contract matrimony. No man shall marry his mother ect..

ch. 164. sec. 8566. When the validity of a marriage shall be denied or doubted by either of the parties, the other may institute a suit for affirming the marriage; and, upon due proof of the validity thereof, it shall be decreed to be valid; and such decree shall be conclusive upon all persons concerned.

ch. 164. sec. 8567. The court of Common Pleas shall have authority to hear and determine any issue affecting the validity of contracts of marriage, and to declare said contracts void for...any...cause going to show that, at the time the said supposed contract was made, it was not a contract: Provided, That such contract has not been consummated by the cohabitation of the parties thereto.

South Dakota

Compiled Code of 1929

131. A marriage may be annulled by an action in the circuit court to obtain a decree of nullity, for any of the following causes existing at the time of the marriage.

3. That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife. Every minister or magistrate who solemnizes any marriage where either of the parties is known to him to be...of unsound mind, or any marriage to which, within his knowledge, any legal impediment exists, is guilty of a misdemeanor.

132. An action to obtain a decree of nullity of marriage, for causes mentioned in the preceding section, must be commenced within the periods and by the parties, as follows:

3. For cause mentioned in subdivision 3, by the party injured, or relative or guardian of the party of unsound mind, at any time before the death of either party.

Tennessee

Code of 1932

sec. 8416. ...no license shall be issued when it appears

that the applicants or either of them is...insane or an imbecile.

sec. 8417. Any interested person shall have the right to contest the issuance of the marriage license, which contest shall be filed, heard and determined by the chairman or judge of the county or probate court, or any judge or chancellor; provided, that such contract shall not be filed without the filing of a cost bond in the sum of at least fifty dollars with solvent sureties executed by the contestant, conditioned as in civil cases, and the cost of such contest shall be adjudged against the losing party.

sec. 8418. Any clerk or deputy who shall issue a marriage license without compliance, in good faith, with the provisions of this law shall be guilty of a misdemeanor and shall be punishable by a fine of not less than one hundred dollars and not more than five hundred dollars.

sec. 8419. Failure to comply with requirements of this law, however, shall not affect the validity of any marriage consummated by ceremony.

sec. 8423. If any such minister or officer knowingly join together in matrimony two persons not capable thereof, he shall be guilty of a misdemeanor, and, also forfeit and pay the sum of five hundred dollars, to be

recovered by action of debt, for the use of the person suing.

Utah

State Statutes for 1933

Title 40. ch. 1. sec. 2. The following marriages are prohibited and declared void:

(1) with an idiot or lunatic...or with a person subject to chronic epileptic fits; provided, that the last disqualification shall not apply to a female over the age of forty five years.

For penalties to married couple, clerk of the court, and solemnizer of this prohibited marriage see Appendix,

Title 40. ch. 3. sec. 1. Proceedings in divorce shall be commenced...for any of the following causes:

(8) Permanent insanity of the defendant, etc.

Vermont

Public Laws of 1933

ch. 140 sec. 3103. The marriage contract may be annulled when, at the time of marriage, either party... was an idiot or lunatic...

ch. 140. sec. 3105. When a marriage is sought to be annulled on the ground of the idiocy of one of the

parties, it may be declared void on the application of a relative of such idiot, interested to avoid the marriage, at any time during the life of either of the parties.

ch. 140. sec. 3106. When a marriage is sought to be annulled on the ground of the lunacy of one of the parties, it may, on the application of a relative of the lunatic, interested to avoid the marriage, be declared void during the continuance of that lunacy, or after the death of the lunatic in that state during the lifetime of the other party to the marriage.

ch. 140. sec. 3107. The marriage of a lunatic may be declared void upon the application of a lunatic after restoration to reason, but a decree of nullity shall not be pronounced if the parties freely cohabit as husband and wife after the lunatic was restored to sound mind.

ch. 140. sec. 3110. The word "lunatic" as used in the preceding sections of this chapter shall extend to persons of unsound mind other than idiots.

ch. 137. sec. 3066. If a person residing and intending to reside in this state, who is prohibited from contracting marriage under the laws of this state, goes into another state or country and there contracts a marriage prohibited and declared void by the laws of this state,

such marriage shall be null and void for all purposes in this state with the same effect as though such prohibited marriage had been entered into in this state.

ch. 137. sec. 3069. Persons authorized...to solemnize marriage shall require of the parties before solemnizing such marriage, a certificate issued from the office of the clerk of the town where the groom resides...The certificate so required shall afford full immunity from all responsibility on the part of the person authorized to solemnize marriage, etc.

Virginia

Code of 1930

5088a:1. No woman under the age of forty five years, or any man any age except he marry a woman over the age of forty five years, either of whom is a habitual criminal, idiot, imbecile, hereditary epileptic or insane person or any person of any age, who is afflicted at the time with any contagious venereal disease, shall hereafter intermarry or marry any other person within this State. The term habitual criminal as used in this act shall be construed to mean any one who has been convicted at least three times of felonious crimes, and the term hereditary epileptic shall be construed to mean any epileptic either of whose parents is or has been an epileptic.

5088a:2. No clergyman or other officer authorized by law to solemnize marriages within this State, shall hereafter knowingly perform a marriage ceremony uniting persons in matrimony, either of whom is a habitual criminal, idiot, imbecile, hereditary epileptic, or insane person, unless it be that the female party to such a marriage is over the age of forty five years, or any person or any age who is afflicted at the time with any contagious venereal disease.

5088a:3. No clerk of the court, whose business it is to issue marriage licenses, shall knowingly issue a license to any applicants either of whom is a habitual criminal, idiot, imbecile, hereditary epileptic, or insane person, unless it be that the female applicant is over the age of forty five years, or to any person who is afflicted at the time with any contagious venereal disease. For the purpose of securing license under the provisions of this act the clerk may (if he desires evidence) accept the affidavit of the man desiring the license as to the fact that he is free from any contagious venereal disease and that he believes the woman named in the license to be free therefrom as sufficient for purpose of this act; the clerk, in the event he is not satisfied whether either one or both of the parties is or are an idiot, feeble minded person,

imbecile, hereditary epileptic or insane person, shall hereby be authorized to follow the recommendation of the chairman of the board of health of his county or city or some duly licensed practicing physician in said county or city of his selection, and for which examination, and report a fee not exceeding \$2.50 may be charged, to be paid by the party or parties applying for the license, to be paid to the physician making the report and recommendation.

5088a:4. It shall be legal for any person knowing that any applicant for marriage is subject to any of the disabilities named in this act, to appear before the clerk to whom application for license is made, or before the clergyman or other officer, who may solemnize the marriage ceremony, and present evidence why such license should not be granted, or why such ceremony should not be performed.

5088a:5. Upon refusal of the clerk of any court in this State to grant such license, the said person or persons refused shall have the right to appeal, at their own cost, to the city or corporation court of the county or corporation in which the female party usually resided, with the further right of appeal to the court of appeals of Virginia.

5088b. If any man or woman shall knowingly marry any

person lawfully adjudged to be insane, epileptic or feeble-minded, whether such person be actually confined in a hospital or colony or in the custody of some person on bond or furlough or at large as an escape patient or inmate, he or she shall be guilty of a misdemeanor, and on conviction thereof shall be confined in jail not exceeding six months or fined not exceeding five hundred dollars, or both. Any such marriage, if attempted to be entered into, shall be absolutely void without any decree of divorce or other legal process. Furthermore, if any persons, resident of this State, one of whom is a lawfully committed and undischarged patient or inmate of any State hospital or colony for the insane, epileptic, or feeble-minded, as above provided, shall, with the intention of returning to reside in this State, go into another State or country and there intermarry and return to and reside in this State, cohabiting as man and wife, such marriage shall be governed by the same law, in all respects as if it had been solemnized in this State. The Superintendent of any State hospital or colony of which such insane, epileptic or feeble-minded person was a patient or inmate, shall on oath report to the clerk of the court in which this such marriage license was issued in this State the fact that such person was a lawfully committed patient or inmate of such hospital or colony, and he, the clerk, shall forthwith

enter this fact on the record of such license in his office and mark the same void.

Washington

Revised Statutes of 1931

Title 57. sec. 8439. No woman under the age of forty five years, or man of any age, except he marry a woman over the age of forty five years, either of whom is a common drunkard, habitual criminal, epileptic, imbecile, feeble-minded person, idiot or insane person, or person who has theretofore been afflicted with hereditary insanity, or who is afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, shall hereafter intermarry or marry any other person within this state.

Title 57. sec. 8440. No clergyman or other officer authorized by law to solemnize marriages within this state shall hereafter knowingly perform a marriage ceremony uniting persons in matrimony either of whom is an epileptic, imbecile, feeble-minded person, common drunkard, idiot, insane person, or person who has theretofore been afflicted with hereditary insanity, habitual criminal, or person afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, unless the female party to such marriage is over

the age of forty-five years.

Title 57. sec. 8451. The county auditor, before a marriage license is issued, upon the payment of a license fee...shall require each applicant therefor to make and file in his office upon blanks to be provided by the county for that purpose, an affidavit showing that such applicant is not feeble-minded, an imbecile, epileptic, insane, a common drunkard, or afflicted with pulmonary tuberculosis in its advanced stages... 'He shall also require an affidavit of some disinterested credible person showing that neither of said persons is an habitual criminal...Such affidavit may be subscribed and sworn to before any person authorized to administer oaths. Any one knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this act shall be deemed guilty of perjury and punished as provided by the laws of the state of Washington.

sec. 8452. Any person knowingly violating any of the provisions of sections 8439, 8440 or 8451, shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment in the state penitentiary for a period of not more than five years, or by both such fine and imprisonment.

Title 12. sec. 983. When there is any doubt as to the facts rendering a marriage void, either party may apply for, and on proof obtain, a decree of nullity of marriage.

Title 57. sec. 8449. When either party to a marriage shall be incapable of consenting thereto, for want of... a sufficient understanding...such marriage is voidable, but only at the suit of the party laboring under the disability.

West Virginia

Official Code of 1931

48:1:17. If any person resident in this State shall, in order to evade the law, and with an intention of returning to reside in this State, go into another state or country, and there intermarry in violation of the provisions of section one, article two of this chapter, and shall afterwards return and reside here, cohabiting as man and wife, such marriage shall be governed by the same law, in all respects, as if it had been solemnized in this state.

48:2:1. ...All marriages solemnized when either of the parties was an insane person, feeble-minded person, idiot, imbecile, or an epileptic, or was afflicted with a disease making it unlawful for him or her to marry,... shall be void from the time they are so declared by a decree of nullity.

48:2:2. When a marriage is supposed to be void, or any doubt exists as to its validity, for any of the causes

mentioned in section 1 of this article, or for any other cause recognized in law, either party may, except as provided in the next succeeding section, institute a suit for annulling or affirming the same, and, upon hearing the proofs and allegations of the parties, the court shall render a decree annulling or affirming the marriage, according to the right of the case. In every such case, and in every other case where the validity of a marriage is called in question, it shall be presumed that the marriage is valid, unless the contrary be clearly proven, and, if the marriage be declared to be valid, it shall be conclusive upon all persons concerned.

Wisconsin

245:03. ...No insane, imbecile, feeble-minded, or epileptic person or idiot shall be capable of contracting marriage.

245:04:(1). If any person residing and intending to continue to reside in this state who is disabled or prohibited from contracting marriage under the laws of this state shall go into another state or country and there contract a marriage prohibited and declared void by the laws of this state, such marriage shall be null and void for all purposes in this state with the same

effect as though such prohibited marriage had been entered into in this state.

245:18. Any person who shall, in any affidavit or statement required or provided for by sections 245:15, 245:16, or 245:17, wilfully and falsely swear, or who shall procure another to swear falsely in regard to any material fact relating to the competency of either or both of the parties applying for a marriage license,...shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

245:19. Any county clerk who shall knowingly issue a marriage license contrary to, or in violation of the provisions of sections 245:12 to 245:38, shall be guilty of a misdemeanor and upon conviction thereof, be punished by a fine of not less than one hundred dollars or more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Wyoming

Revised Statutes of 1931

68:117. All marriages contracted without this state,

which would be valid by the laws of the country in which the same were contracted, shall be valid in all courts and places in this state.

68:113. ...if any person shall undertake to join others in marriage, knowing...of any legal impediment to the proposed marriage, or if any person authorized to solemnize any marriage shall wilfully and knowingly make a false certificate of any marriage to the county clerk, or if the said clerk shall wilfully and knowingly make a false record of any certificate of marriage to him made, he shall be guilty of misdemeanor, and shall be punished by a fine not exceeding five hundred dollars, or imprisonment for a period not exceeding one year, at the discretion of the court.

35:101. Marriages are void without any decree of divorce that may hereafter be contracted in this state:

Second. When either party is insane or an idiot at the time of contracting the marriage.

35:105. A petition to annul a marriage on the ground of insanity or idiocy may be exhibited by any person admitted by the court to prosecute as the next friend of such idiot or lunatic.

35:106. The marriage of a lunatic may also be declared void upon the application of the lunatic after the restoration of reason, but in such cases no decree of

nullity shall be pronounced if it shall appear that the parties freely cohabit as husband and wife after the lunatic was restored to reason.

MARRIAGES PROHIBITED OR VOIDABLE BECAUSE OF INSANITY OR FEEBLE-MINDEDNESS

	Description of Persons Prohibited From Marrying.	Out-of-state Marriages ₁	Marriage permitted if woman is 45 years of age and over	Method of Prohibition and Effect given such Marriages	Parties to Marriage	
					Degree of Offense	Penalty
c.7041, 7065,	"Incapable from want of understanding, of consenting to any marriage"	0		Void from the time it is so declared by a court of competent jurisdiction.		\$100 forfeiture
ings C.	"Imbecile or insane"			License not to be issued; voidable by party injured, or by relative or guardian of the insane person any time before death of the party, unless after return to reason parties freely cohabit as man and wife.	2	
t 6	"Imbecile or feeble-minded."	X	Yes			To 3-
	Persons "of any degree of unsoundness of mind"			Such marriage unlawful and "voidable at the instance of the innocent party"	Misdemeanor or perjury	\$100 or 30 days
f sec.1	"Idiot or a person adjudged to be a lunatic"	X		"Void from the time when their nullity shall be declared by decree"		
	Unsound mind; unable to contract.	X		Such marriages may not be contracted and are "void"; issue legitimate until mar-		

IMBECILITY OR FEEBLE-MINDEDNESS

and	P E N A L T I E S					
	Parties to Marriage		License Issuer		Solemnizer of Ceremony	
	Degree of Offense	Penalty	Degree of Offense	Penalty	Degree of Offense	Penalty
is so de incompetent		\$100 bond forfeited	Misdemeanor	\$100-500	Misdemeanor	\$100-500
used; void- , or by of the in- before death after re- s freely fe.	2	To 3 years		To \$1000 and/or to 5 yrs.		To \$1000 and/or to 5 yrs.
al and ance of	Misdemeanor or perjury	\$100 or 30 days	Misdemeanor	\$100 or 30 days	Misdemeanor	\$100 or 30 days
then e de-					Misdemeanor	
it be void", all are-						

<p>\$50 - \$200</p>	<p>Misdemeanor</p>	<p>To \$500</p>	<p>To \$1000 and/or to 3 yrs.</p>	<p>1-12 months and/or to \$1000</p>
<p>\$100</p>	<p>Misdemeanor</p>	<p>\$100-\$500 for every offense</p>	<p>To \$1000 and/or to 3 yrs.</p>	<p>Expelled \$500-\$1000 from office</p>
<p>\$100-\$1000</p>	<p>Misdemeanor</p>	<p>To \$500</p>	<p>To \$1000 and/or to 3 yrs.</p>	<p>3</p>
<p>perjury</p>	<p>2</p>	<p>\$100-\$1000 and/or 1 year</p>	<p>To \$1000 and/or to 3 yrs.</p>	<p>and de-</p>

of Insane, feeble-minded and Epileptic.

1 Out-of-state marriages recognized...0, not recognized...X
 2 Penalty for extra-marital relationships, see appendix, State Statutes Regulating Marriage of Indiana
 3 Punishment for anyone who aids or abets marriage of feeble-minded person or lunatic

<p>May be annulled unless, after removal of insanity, parties freely cohabit as man and wife.</p> <p>Not capable on contracting marriage</p>				<p>Indiana A.S. 1933 Ch. 10, Sec. 4201-4203. Ch. 44, sec. 104, 204, 207-12.</p>
<p>"Void", license not to issue.</p> <p>License not to issue</p>	<p>Yes</p>	<p>0</p>	<p>"Insane or idiotic" "of unsound mind"</p>	<p>Iowa C. 1935 Ch. 469, sec. 10429 10445. Ch. 174, sec. 3501. Ch. 471, sec. 10486</p>
<p>May be annulled unless, after removal of insanity, parties freely cohabit as man and wife.</p> <p>Not capable on contracting marriage</p>	<p>Yes</p>	<p>0</p>	<p>"Insane person or idiot"</p>	<p>Kansas R.S. 1923 Ch. 23, art. 120-2 Ch. 60 art. 1515</p>
<p>May be annulled unless, after removal of insanity, parties freely cohabit as man and wife.</p> <p>Not capable on contracting marriage</p>	<p>Yes</p>	<p>0</p>	<p>"Idiot, imbecile, insane or under guardian-ship as incompetent."</p>	<p>Kentucky S. 1930 Ch. 66, sec 2097, 2101, 2111-2, 2115 Ch. 16, sec. 216aa 60</p>
<p>May be annulled unless, after removal of insanity, parties freely cohabit as man and wife.</p> <p>Not capable on contracting marriage</p>	<p>Yes</p>	<p>0</p>	<p>"Idiot or lunatic."</p>	<p>Out-of-state marriages recognized...0, not recognized...X Penalty for extra-marital relationships, see appendix, State Statutes Regulating Marriage of Indiana Punishment for anyone who aids or abets marriage of feeble-minded person or lunatic</p>

Louisiana
C. 1932
c. 1158
Extra-marital
relations only)

line
S. 1930
.72, Sec. 2, 8, 14
.73, Sec. 15

"Insane or feeble-
minded or idiot"

X

Incapable of contracting
marriage; such marriages
are "absolutely void."

Massachusetts
L. 1921
. 207, sec. 5, 10
, 37, 52.

"Insane or feeble-
minded person or
idiot"

X

Incapable of contracting mar-
riage; validity to be raised
only in a process instituted
in lifetime of both parties,
brought for that purpose.

Michigan
L. 1929
.245, Sec. 12695,
697, 12700, 12713:8
754:35, 12755:36

"Insane person,
idiot."

Incapable of contracting
marriage.

Per jury

Minnesota
son's S. 1927
.70, sec. 8564, 8567,
69, 8575. Ch. 71,
c. 8575, 8581.

"Imbecile, feeble-
minded or insanw"

Cause for divorce if other
party did not know of
infirmary.

Mississippi
Mingway's A.C.
27.
.50, Sec. 2728
. 21, Sec. 1479

"Insanity or Idiocy"

"Prohibited and declared ab-
solutely void", license not
to issue.

Missouri
S. 1929
.20. Sec. 2974
.30 sec. 4264

"Insane, mentally
Imbecile, feeble-
minded."

Marriage may be annulled.

Montana
C. 1935
.4, sec. 5707,
14-5.

"Unsound mind"

0

Contracting
Married
void.

\$100

\$100 or
6 mo.

\$100
Revoke
license to
marry persons

Contracting
to be
as
both
& persons

Fine or
imprisonment₄

Fine or
imprisonment₄

Fine or
imprisonment₄

Contracting

Marriage

As

Felony

To \$1000
and/or
1 - 5 yrs.

Misdemeanor

To 1 yr.
and/or
\$50-\$500

To \$1000.

\$500 for
every offense
or 1 yr.

As if

Misdemeanor

As if

Misdemeanor

Misdemeanor

1 yr. and/or
not less than
\$500.

<p>ense not to those be an- ion after on. nullity (not to parties ration to and il- Act does sterilized. e. tisted o reason. its nullity urt of on. ollowed by e birth of ared void er party)</p>	<p>and may be or restor- parties</p>	<p>Perjury</p>	<p>Penalty for perjury</p>	<p>\$50-\$500 and/or To 30 days</p>	<p>Perjury</p>	<p>\$50-\$500 and/or To 30 days</p>
<p>on. ion after be an- to those nullified. To \$500</p>	<p>and may be or restor- parties</p>	<p>Perjury</p>	<p>Penalty for perjury</p>	<p>\$50-\$500 and/or To 30 days</p>	<p>Perjury</p>	<p>\$50-\$500 and/or To 30 days</p>
<p>on. ion after be an- to those nullified. To \$500</p>	<p>and may be or restor- parties</p>	<p>Perjury</p>	<p>Penalty for perjury</p>	<p>\$50-\$500 and/or To 30 days</p>	<p>Perjury</p>	<p>\$50-\$500 and/or To 30 days</p>

At discretion of the court. Same punishment for physicians who make false statements as to applicant's health or mental condition. Also \$200 to any person standing in loco parentis, who sues for the same.

<p>Pe</p>	<p>Marriage void, license not to issue; may be annulled. Act does not apply to those sterilized; may not be annulled if cohabitation after restoration to reason. "Void from time its nullity shall be declared"(not to cohabit after restoration to reason) Marriage prohibited and license not to issue. Act does not apply to those sterilized. License not to issue. Voidable if not satisfied after restoration to reason. Void from the time its nullity is declared by a court of competent jurisdiction. "Void" (a marriage followed by cohabitation and the birth of issue not to be declared void after death of either party) Marriage prohibited and may be annulled unless after restoration to reason the parties freely cohabited.</p>	<p>Yes</p>	<p>0</p>	<p>"Imbecile or feeble-minded or afflicted with hereditary insanity. Parties who, from want of understanding, are incapable of assenting to marriage. R.L. 1912 Sec. 2348:12, 2354:19, 2356:20 Nevada, 2357:21 New Hampshire P.L. 1926 Ch. 286, sec. 10-15, sp. session 1929, Sec. 14. New Jersey C.S. 1911-1924 Ch. 123, Sec. 21, 23.6, 27-8, 35. New York McKinney's C.L. for want of understanding incapable of consent "Idiot, imbecile, or of unsound mind." North Carolina C. 1925 Ch. 50, Sec. 2500a, c, d, 2503, 2495. Ch. 30, sec. 1658 North Dakota C.L. 1913 Ch. 436, 4366, 4368 Ch. 536, 4373-6, 4378</p>	<p>Nebraska C.S. 1929 Ch. 42, sec. 102-3, 107, 113, 331-2 Nevada R.L. 1912 Sec. 2348:12, 2354:19, 2356:20, 2357:21 New Hampshire P.L. 1926 Ch. 286, sec. 10-15, sp. session 1929, Sec. 14. New Jersey C.S. 1911-1924 Ch. 123, Sec. 21, 23.6, 27-8, 35. New York McKinney's C.L. for want of understanding incapable of consent "Idiot, imbecile, or of unsound mind." North Carolina C. 1925 Ch. 50, Sec. 2500a, c, d, 2503, 2495. Ch. 30, sec. 1658 North Dakota C.L. 1913 Ch. 436, 4366, 4368 Ch. 536, 4373-6, 4378</p>
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<p>"Imbecile or insane"</p> <p>193</p>		<p>License not to issue</p>
<p>"Incapable from want of understanding"</p> <p>74 92</p>		<p>Voidable at suit of incapable party or parent or guardian. Cohabitation after reason restored is defense to the action.</p>
<p>"Incapable of entering marriage contract for want of sufficient understanding"</p> <p>3,905 39.</p>		<p>Void from time so declared, at suit of party under disability (if no full cohabitation after removal of disability).</p>
<p>"Imbecile, of unsound mind"</p> <p>936 .6,10, 23,</p>		<p>License not to issue.</p>
<p>"Idiot or lunatic"</p> <p>159 , 91</p>		<p>"Absolutely void." 7</p>
<p>"Idiots and lunatics"</p> <p>na 556</p>		<p>May not lawfully contract matrimony</p>
<p>"Incapable of making any other civil contract. Unsound mind."</p> <p>3,132</p>		<p>License not to issue. Voidable unless there was full cohabitation after restoration to reason.</p>
<p>"Insane or imbecile"</p>		<p>License not to issue.</p>

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guardian.
reason re-
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7

contract

ue. Voidable
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ration to

ue.

To \$1000

To 1 yr.
or
\$100-\$500

To \$1000

To 1 yr.
or
\$100-\$500

Misdemeanor

Misdemeanor \$100-\$500

Misdemeanor \$500

may be declared void
on of lunatic
reason to reason,
do not continue

void without decree
or other legal pro-

prohibited and "void-
only at the suit of
aborning under the

the time they are so
a decree of divorce

hibited and may be

any decree of

To 3 yrs.
and/or
to \$1000

To \$1000
and/or
to 5 yrs.

To \$500
or
to 1 yr.

To 2 yrs.
and/or to
\$1000. May
lose job.

To \$1000
and/or
to 5 yrs.

\$100-\$500
and/or
to 1 yr.

To \$500
or
to 1 yr.

Misdemeanor To 6 mo.

and/or
to \$500

To \$1000
and/or
to 5 yrs.

\$100-\$500
and/or
to 1 yr.

Misdemeanor

Misdemeanor

Misdemeanor

Marrriage may be declared void upon application of lunatic after restoration to reason, if parties do not continue to cohabit.

"Absolutely void without decree of divorce or other legal procedure."

"Marrriage prohibited and void if the party laboring under the disability"

"Void from the time they were declared by a decree of divorce or nullity."

Marrriage prohibited and may be annulled.

"Void without any decree of divorce."

Yes

X

"Idiot or Lunatic"

Ch. 1, 18, 16

X

"Idiot or Lunatic"

1933, sec. 3103,

137, sec. 3066-

Yes

X

"Idiot, imbecile or insane person."

Virginia 1930 1-5

Yes

X

"Imbecile, feeble-minded person, idiot, or insane person."

Washington R.S. 1931. Title 57, sec. 843

40; 8451-2, 8559.

"Insane person, feeble-minded person, idiot, imbecile."

West Virginia O.C. 1931. Ch. 48, art. 1:17, art. 2:1.

X

"Insane, imbecile, feeble-minded."

Wisconsin S. 1935 Sec. 245:03, 04, 18, 19, 38.

X

"Insane or idiot"

Wyoming R.S. 1931 Ch. 68, Sec. 117

0

7 Issue illegitimate.

STATE LAWS PROHIBITING MARRIAGE OF EPILEPTICS, DRUNKARDS AND TUBERCULOUS PERSONS

State	E P I L E P S Y				Tuberculosis
	Marriage of Sterilized Persons Permitted	Permitted if Women are 45 years of age	Punishment of Extra-marital Relationships	Out-of-state Ceremony ₁	
Connecticut 1930 75-6		Yes	Yes		
Delaware 1921 92:1				x	
Florida 1933 Sec. 4203 Sec. 104, 7-12 Sec.1507,			Yes	x	"A transmissible disease"
Georgia 1923 Sec. 120		Yes			
Indiana 1932 58 (Extra-marital Relationships)			Yes		
Michigan					

STATE LAWS PROHIBITING MARRIAGE OF EPILEPTICS, DRUNKARDS AND TUBERCULOUS PERSONS

E P I L E P S Y				Tuberculosis	Drunkards
ons	Permitted if Women are 45 years of age	Punishment of Extra-marital Relationships	Out-of-state Ceremony ₁		
	Yes	Yes	x		"Habitual drunkard"
		Yes	x	"A transmissible disease"	
	Yes				
		Yes			

<p>"In its advanced stages."</p> <p>"In its infectious stages"</p>	<p>o.</p>		<p>Yes</p>

"Common
Diseases"

21700

Minnesota
Mason's S. 1927
Sec. 8564, 8567, 8569

Missouri
R. S. 1929
Sec. 2974

Nebraska
C. S. 1929
Ch. 42, sec. 102,
103, 107, 113

Yes

New Hampshire
P.L. 1926
Ch. 286, sec.
10-16

Yes

Yes

New Jersey
C.S. to C.S. 1911-
1924.
Ch. 123, Sec. 21,
23.5, 27, 28, 35.

North Carolina
C. 1935
Sec. 2500a
(Only T.B.)

North Dakota
C. L. 1914
Sec. 4373-4

Ohio
Pages. G.C. 1931
Sec. 11187, 11193

1 Out-of-state ceremony recognized
Not recognized

STATE LAWS PROHIBITING MARRIAGE OF EPILEPTICS, DRUNKARDS AND TUBERCULOUS

State	E P I L E P S Y			
	Marriage of Sterilized Persons Permitted	Permitted if Women are 45 years of age	Punishment of Extra-marital Relationships	Out-of-s Ceremony
Pennsylvania Purdon's S. 1936 Ch. 48 Sec. 6, 10, 15, 16.				
Utah R. S. 1933 Ch. 40, Sec. 1		Yes		
Virginia O. C. 1931 Sec. 5088a:1-3,5 5088b		Yes		X
Washington Remington's R.S. 1931 Sec. 8439, 8451-2		Yes		
West Virginia O.C. 1931 Ch. 48, art. 1:17, art. 2:1				
Wisconsin S. 1935 Sec. 245:03, 04, 18, 19, 38.				X

LAWS PROHIBITING MARRIAGE OF EPILEPTICS, DRUNKARDS AND TUBERCULOUS PERSONS

E P I L E P S Y

Permitted if Women are 45 years of age	Punishment of Extra-marital Relationships	Out-of-state Ceremony ₁	Tuberculosis	Drunkards
Yes				
Yes		X		
Yes		X	"In its advanced stages"	"Common drunkard"

STATE STATUTES REGULATING MARRIAGE OF
VENEREALLY DISEASED PERSONS

The Alabama Law--1919

1. All male persons making application for license to marry shall at any time within fifteen days prior to such application, be examined as to the existence or nonexistence in such person of any venereal disease, and it shall be unlawful for the judge of probate of any county to issue a license to marry to any person who fails to present and file with such judge of probate a certificate setting forth that such person is free from venereal diseases so nearly as can be determined by a thorough examination and by the application of the recognized clinical and laboratory tests of scientific search, when in the discretion of the examining physician such clinical and laboratory tests are necessary. Such certificate shall be made by a licensed physician, shall be filed with the application for license to marry, and shall read as follows, to-wit: I,(name of physician)....., being a legally licensed physician, do certify that I have thisday of19....., made a thorough examination of(name of applicant)....., and believe him to be free from all venereal

diseases.....(name of physician). That no marriage shall be entered into in any manner whatsoever without the male party shall have first submitted to said ante-nuptial examination and having obtained a certificate from such physician of his freedom from said diseases.

2. Such examiners shall be physicians duly licensed to practice in this State. The health officer of any county, shall, upon request, make the necessary examination and issue such certificate, if the same can be properly issued, without charge to the applicant. The charge for such an examination shall in no case exceed five dollars.

3. Any judge of probate who shall unlawfully issue a license to marry any male person, who fails to present and file with the probate judge a certificate required by section 1 of this act shall be guilty of a misdemeanor and shall upon conviction be fined not less than \$50.00 nor more than \$100 or be sentenced to hard labor for the county not exceeding six months, one or both in the discretion of the court of judge trying the case.

4. Any physician who shall knowingly and wilfully make any false statement in the certificate provided for in section 1 of this act, shall be punished by a fine of not more than \$100, or sentenced for not more than six months hard labor for the county.

The Louisiana Law--1924

1. Be it enacted by the Legislature of Louisiana, That all male persons making application for license to marry shall at any time within fifteen days prior to such application, be examined as to the existence or non-existence in such person of any venereal disease, and it shall be unlawful for the clerk of any court of any parish, or the Recorder of Births, Deaths and Marriages of the city of New Orleans, Parish of Orleans, or any other officer authorized to issue marriage licenses, to issue a license to marry to any person who fails to present and file with such officer a certificate setting forth that such person is free from venereal diseases so nearly as can be determined by a thorough examination and by the application of the recognized clinical and laboratory tests of scientific search, when in the discretion of the examining physician such clinical and laboratory tests are necessary. When a microscopical examination for gonococci is required such examination shall, upon the request of any physician in the state, be made by the State Laboratory of Hygiene free of charge.

2. Such examiners shall be physicians duly licensed to practice. The fee for such examination, to be paid by the applicant for examination before the

certificate shall be granted, shall not exceed two dollars. The parish or city or other political subdivision, shall, upon request, make the necessary examination and issue such certificate, if the same can be properly issued, without charge to the applicant, if such applicant be indigent.

3. Any clerk of court or other duly authorized officer who shall unlawfully issue a license to marry to any person who fails to present and file the certificate provided by this act, or any party or parties having knowledge of any matter relating or pertaining to the examination of any applicant for license to marry, who shall disclose the same, or any portion thereof, except as may be required by law, shall upon proof thereof be punished by a fine of not more than one hundred dollars or by imprisonment not more than six months.

4. Any physician who shall knowingly and wilfully make any false statement in the certificate provided for in this act shall be punished by a fine of not more than one hundred dollars or by imprisonment nor more than six months.

5. The form of medical certificate required by Section 1 of this act shall be substantially in the following form.

"I, (Name of physician) being a legally licensed

physician, do certify that I have thisday of
, 19..., made a thorough examination of
 (Name of person) and believe him to be free from all
 venereal diseases.

.....
 (Name of Physician)

6. All laws or parts of laws inconsistent or con-
 flicting with the provisions of this act are hereby
 repealed.

The North Carolina Law--1921

1. No license to marry shall be issued by the
 register of deeds of any county to a male applicant
 therefor except upon the presentation by the said male
 applicant of a certificate executed within seven days
 from the time of the presentation of said certificate
 to the register of deeds as hereinafter provided, show-
 ing the nonexistence of any venereal disease, the non-
 existence of tuberculosis in the infectious stages, and
 that the applicant has not been adjudged by a court of
 competent jurisdiction, an idiot, imbecile, or of un-
 sound mind. No license shall be issued to any female
 applicant who shall not present a certificate showing
 the nonexistence of tuberculosis in the infectious stages,
 and that she has not been adjudged by a court of compe-

tent jurisdiction to be of unsound mind.

2. Such certificate to be executed by any reputable physician licensed to practice medicine and surgery in the State and who shall reside within the county in which said license to marry shall be applied for, by certificate of the county health officer of such county, whose duty it shall be to examine such applicants and issue such certificates without charge.

3. Any register of deeds who issues a license to marry without the presentation of the certificate herein above provided for, or contrary to the provisions of this act, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two hundred dollars, or imprisoned thirty days, in the discretion of the court.

4. Provided further, that any physician who shall knowingly and wilfully make any false statement in the certificate herein above provided for, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than two hundred dollars, or imprisoned for not more than six months.

5. No laws now in force relating to the issuance of licenses to marry shall be repealed or abridged by this act, except such as may be in conflict herewith.

6. All laws and clauses of laws in conflict with

this act are hereby repealed.

7. This act shall be in force from and after its ratification.

The North Dakota Law--1913

The county judge, before a marriage license is issued, shall require each applicant therefor to file in his office upon blanks to be provided by the county for that purpose, an affidavit of at least one duly licensed physician other than the person seeking the license, showing that the contracting parties are not feeble-minded, imbeciles, epileptics, insane persons, common drunkards, or persons afflicted with pulmonary tuberculosis in its advanced stages, provided, that in addition, the affidavit as to the male contracting party shall show that such male is not afflicted with any contagious venereal disease. He shall also require an affidavit of some disinterested, credible person, showing that said persons are not habitual criminals; the female is over the age of eighteen years and the male is over the age of twenty-one years, unless the consent in writing is obtained of the father, mother, or other guardian of the person for whom the license is required in cases where the female is under the age of eighteen years and the male is under the age of twenty-one years, provided,

that no consent shall be given, nor license issued, unless such female be over the age of fifteen years. Such affidavit may be subscribed and sworn to before any person authorized to administer oaths.

Anyone knowingly swearing falsely to the statements contained in the affidavit mentioned in this act shall be deemed guilty of perjury and punished as provided by the laws of North Dakota.

The Oregon Law--1913

1. That before any county clerk in this State shall issue a marriage license, the applicant therefor shall file with the clerk from whom such license is sought, a certificate from a physician duly authorized to practice medicine within the State made under oath, within ten days from the date of filing the same, showing that the male person thus seeking to enter the marriage relation is free from contagious or infectious venereal disease.

2. Any physician who shall knowingly and wilfully make any false statement in any certificate issued, as herein provided, shall be punished by the revocation of his license to practice his profession within the State.

3. All fees and charges of any physician making the necessary examination of and issuing the necessary

certificate to any one party, as herein provided, shall not exceed the sum of \$2.50.

4. The county physicians of the several counties shall, upon request, make the necessary examinations and issue such certificate, if the same can properly be issued, without charge to the applicant, if indigent.

The Wisconsin Law--1913

1. All male persons making application for license to marry shall at any time within fifteen days prior to such application, be examined as to the existence or non-existence in such person of any venereal disease, and it shall be unlawful for the county clerk of any county to issue a license to marry to any person who fails to present and file with such county clerk a certificate setting forth that such person is free from acquired venereal disease as nearly as can be determined by physical examination and by the application of the recognized clinical and laboratory tests of scientific search. Such certificate shall be made by a licensed physician, shall be filed with the application for license to marry, and shall read as follows, to wit:

I,.....(name of physician), being a legally licensed physician, do certify that I have this..... day of.....19....., carefully and thoroughly

examined.....(name of person), having applied the recognized clinical and laboratory tests of scientific search and find him to be free from all venereal diseases so nearly as can be determined.

.....(signature of physician).

2. Such examiners shall be physicians duly licensed to practice in this state, shall be persons of good moral character and of scientific attainments and at least thirty years of age. The fee for such examination to be paid by the applicant for examination before the certificate shall be granted, shall not exceed three dollars. The county physician of any county shall, upon request, make the necessary examination and issue such certificate, if the same can be properly issued, without charge to the applicant, if said applicant be indigent.

3. Whenever there is a dispute or disagreement regarding the findings of any medical examiner, laboratory tests shall be made in the state laboratory of hygiene from material submitted by such examiner, and the findings of the said laboratory shall be accepted as evidence of the presence or absence in the person examined of any venereal disease.

4. In any case wherein the certificate of health required by sub-section 1 of this section shall be re-

fused and the applicant shall make and file with the county clerk of the proper county an affidavit setting forth the fact that such applicant has not had a fair and impartial examination and that he is entitled to such certificate of health, it shall be the duty of such county clerk to certify such proceedings, at once, to the county court of such county without formality of expense to such applicant. Such application shall be heard by a judge of said court, at the earliest time practicable, without a jury in court or in chambers, during the term or in vacation as the case may be. Notice of the time and place of such hearing shall be given to such applicant by mail. A certified copy of an order of such judge upon his findings in such matter determining that such applicant is entitled to such certificate of health presented and filed with such county clerk, shall have the same force and effect as such certificate and such county clerk shall thereupon issue a license to marry, to such applicant.

5. Any person a resident of this state, who with intent to evade the provisions of this act shall go into another state and there have such a marriage solemnized and who within one year from date of such marriage shall return and reside in this state, shall upon information or knowledge to the district attorney of any

county be required by him to file with the county clerk of any county in which such person may be then a resident, a certificate of examination from such physician as set forth in this section. Any person violating the provisions of this subsection shall be punished by imprisonment in the county jail not less than 30 days nor more than one year.

6. Any county clerk who shall unlawfully issue a license to marry to any person who fails to present and file the certificate provided by subsection 1 of this section, or any party or parties having knowledge of any matter relating or pertaining to the examination of any applicant for license to marry, who shall disclose the same, or any portion thereof, except as may be required by law, shall upon proof thereof be guilty of a felony, and shall be punished by imprisonment in the state prison not less than one year nor more than five years.

7. Any physician who shall knowingly and wilfully make any false statement in the certificate provided for in subsection 1 of this section shall be guilty of perjury and upon conviction shall be punished as for perjury, and a conviction under this subsection shall revoke the license of such physician to practice in this state.

The Wisconsin Law--1915

1. All male persons making application for license to marry shall at any time within fifteen days prior to such application, be examined as to the existence or non-existence in such person of any venereal disease, and it shall be unlawful for the county clerk of any county to issue a license to marry to any person who fails to present and file with such county clerk a certificate setting forth that such person is free from venereal diseases so nearly as can be determined by a thorough examination and by the application of the recognized clinical and laboratory test of scientific search, when in the discretion of the examining physician such clinical and laboratory tests are necessary. When a microscopical examination for gonococci is required such examination shall upon the request of any physician in the state be made by the state laboratory of hygiene free of charge. The Wassermann test for syphilis when required shall upon application be made by the psychiatric institute at Mendota free of charge. Such certificate shall be made by a physician, licensed to practice in this state, shall be filed with the application for license to marry, and shall read as follows, to wit:

I,.....(name of physician), being a physician,
legally licensed to practice in the state of.....

..., my credentials being filed in the office of.....
, in the city of....., county of.....,
 do certify that I have thisday of....., 19..,
 made a thorough examination of.....(name of person),
 and believe him to be free from all venereal diseases.

.....(signature of physician)

2. Such examiners shall be physicians duly licensed to practice in this state.** The fee for such examination, to be paid by the applicant for examination before the certificate shall be granted, shall not exceed two dollars. The county or asylum physician of any county, shall, upon request, make the necessary examination and issue such certificate, if the same can be properly issued, without charge to the applicant, if said applicant be indigent.

3. Any county clerk who shall unlawfully issue a license to marry to any person who fails to present and file the certificate provided by subsection 1 of this section, or any party or parties having knowledge of any matter relating or pertaining to the examination of an applicant for license to marry, who shall disclose the same or any portion thereof, except as may be required by law, shall, upon proof thereof, be punished by a fine of not more

*in 1917 ammended to read "physician licensed to practice in this state or in the state in which such male person resides."

**in 1917 ammended to read "or in the state in which such male person resides."

than one hundred dollars or by imprisonment not more than six months.

4. Any physician who shall knowingly and wilfully make any false statement in the certificate provided for in subsection 1 of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment not more than six months.

Wisconsin Law Applying to Marriage
of Persons Having Had Venereal Disease

Statutes 245.11

1. No person who has ever been afflicted with gonorrhea or syphilis shall be granted a marriage license in this state until such person shall furnish to the county clerk issuing the license a certificate from the director of the state laboratory of hygiene, or from the state board of health branch laboratories controlled by the state board of health, setting forth the fact that the necessary microscopical examination has been made and that the individual named in the certificate is not in the infective or communicable state of gonorrhea, or a certificate from the director of the psychiatric institute at Mendota setting forth the fact that the necessary blood test for the Wasserman reaction has been made and that the person named in the certificate is not in the infective or communicable stage of syphilis. In all cases where the individual has been afflicted with both gonor-

rhea and syphilis, both certificates shall be furnished before such license is granted.

2. Such a certificate or certificates shall be furnished to any citizen of this state by the director of any of the laboratories mentioned, without charge.

3. The necessary smears for gonorrhoea examinations and the blood for determining the presence of syphilis shall be collected and forwarded to the laboratory by physicians designated by the state board of health or the state health office, for which a fee not to exceed two dollars may be charged.

4. Any person who shall obtain any such license contrary to the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars or by imprisonment in the county jail for not less than three months, or by both such fine and imprisonment.

Wisconsin Law for the Control of Venereal Disease

"Any person afflicted with gonorrhoea, chancroid, or syphilis in its communicable stage is declared a menace to public health. A physician called to attend a person so afflicted shall report to the state Board of Health in writing, on blanks furnished by said Board of Health and

as it directs, his age, sex, and conjugal condition and the name of the disease."

"When a person so afflicted ceases taking treatment before reaching the non-communicable stage, or when a person has been informed by a physician that such person is so afflicted, and refused treatment, the physician shall forthwith notify the state Board of Health, giving the age, sex, and conjugal condition of the person afflicted and the disease. The board shall without delay, take such steps as shall be necessary to have said person committed for treatment."

The Wyoming Law--1921

That every male person securing a marriage license must produce a certificate dated within ten days before the date of the application for such marriage license from a licensed physician practicing in the State of Wyoming showing applicant to be free from any venereal disease in a communicable stage.

LAWS REGULATING MARRIAGE OF VENEREALLY DISEASED PERSONS IN THE UNITED STATES

Medical Certification For Marriage License	Year Law Fee Passed	Subject of Examination	Marriage Prohibited for Prescribed Venereal Diseases	Penalty for Marriage Despite Venereal Disease
Yes	1919 *\$5.00	Male	<p>Venereal Disease</p> <p>Unlawful for a person to marry who is...venerally diseased.</p>	<p>For judge issuing license certificate--Fine \$50-100 Physician--Not more than labor.</p> <p>Party or parties to such fined \$100, and in default be imprisoned not exceeding 6 months.</p>
Yes	1924 \$2.00	Male	<p>Venereal Disease</p> <p>Syphilis--until physician's certificate certifying cure.</p> <p>Of those having had syphilis or gonorrhoea and has not been cured.</p> <p>Venereal Disease (Co. Judge shall require affidavit from each applicant before issuing license)</p>	<p>For physician or licensee fine not more than \$100 not more than six months imprisonment.</p> <p>Physician making false certificate failing to comply with law imprisonment 3 mo. to 1 yr.</p> <p>To person with venereal disease \$500 - \$1000, imprisonment or both.</p>

PART NO. I.

PERSONS IN THE UNITED STATES.

Penalty for Marriage Despite Venereal Disease	Marriage Prohibition For Other Diseases	Penalty for Marriage Despite Other Diseases
<p>For judge issuing license to male without(2) certificate--Fine \$50-100 or hard labor. Physician--Not more than \$100 fine or hard labor.</p> <p>Party or parties to such a marriage shall be fined \$100, and in default of payment shall be imprisoned not exceeding 30 days.</p> <p>For physician or license issuer at fault; fine not more than \$100 or imprisonment not more than six months.</p> <p>Physician making false statement of person failing to comply--fine \$200-\$500, imprisonment 3 mo. to 1 yr., or both.</p> <p>To person with venereal disease: fine from \$500 - \$1000, imprisonment not over 5 yrs. or both.</p> <p>Imprisonment from 3 months to 1 year, fine</p>	<p>Where either party afflicted with a transmissible disease</p> <p>Concealment from other party of any loathsome disease existing at time of marriage</p>	<p>Cause of divorce on suit of party not in fault.</p>

To person with venereal disease: fine from \$500 - \$1000, imprisonment not over 5 yrs. or both.

Imprisonment 3 mo. to 1 yr., or both.

Imprisonment from 3 months to 1 year, fine from \$200 to \$500, or both, for failure to comply to these provisions as to diseased person.

Any person marrying with knowledge he is infected punishable by fine not exceeding \$1000, imprisonment not exceeding 3 years, or both.

Actions may be maintained for annulment in case of communicable venereal disease

Registrar issuing license wrongly: fine not less than \$200 or imprisonment for 30 days; physician making false statement: same fine, imprisonment not more than 6 months.

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 Actions may be m
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 Registrar issuin
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 days; physician
 same fine, impr
 6 months.

Veneral Disease
 (Co. Judge shall require
 affidavit from each appli-
 cant before issuing license)
 Of those reported to the
 Board of Health as having
 gonorrhea or syphilis
 Gonorrhea, syphilis or
 chancre in a communicable
 stage
 Each party must sign and verti-
 fy a statement as to freedom
 from veneral disease on
 application for marriage li-
 cense.
 Veneral Disease
 Tuberculosis in infectious
 stages.
 Tuberculosis in infectious
 stages, has not been judged
 by court of competent jur-
 isdiction to be of unsound
 mind.

Female
 Male
 1921 (1)

Yes

Hampshire
 1926
 886, Sec. 17
 Jersey
 1911-1924
 123, Sec. 21
 York
 Kinney's Consol.
 Sup. 1936.
 m. Rel. Sec. 15
 rth
 of 1935
 c. 2500a

Dec.
 1929
 12695
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 42, sec.
 1929
 1929
 42, sec.

Where no wasserman is given.
 No set fee
 Not to exceed 6 months, or both fine and labor.

LAWS REGULATING MARRIAGE OF VENEREALLY DISEASED PERSONS

State	Medical Certification For Marriage License	Year Law Passed	Fee	Subject of Examination	Marriage Prohibited for Prescribed Venereal Diseases	Penalty for Marriage with Venereal Disease
Dakota 1913 07 Sec. 3	Yes	1913	\$2.00	Male Male & Female	Any contagious venereal disease.	
Illinois 1919 7, Sec. 3					After infection with venereal disease and before being pronounced cured by some reputable physician in writing.	Infected persons by imprisonment years.
Indiana 1913 87	Yes	1913	\$2.50	Male	Contagious or infectious venereal disease	Physician known to be infected shall have
Pennsylvania 1913 40 Sec. 1					Marriage declared void with person afflicted with syphilis or gonorrhoea that is incurable	Marriage of venereal disease punishable by six months, if both.
Kentucky 1933 8638					To person knowing he or she is infected with gonorrhoea or syphilis	A malady such as gonorrhoea or syphilis knowingly contracted without certificate of cure for more than two years
Ohio 1930					No person of any age who is afflicted with any contagious venereal disease.	Male must prove free from venereal disease for the woman to

MENTALLY DISORDERED PERSONS IN THE UNITED STATES (Cont.)

Penalty for Marriage Despite Venereal Disease	Marriage Prohibition For Other Diseases	Penalty for Marriage Despite Other Diseases
<p>Infected person marrying shall be punished by imprisonment of from one to five years.</p> <p>Physician knowingly making false statement shall have his license revoked</p> <p>Marriage of venereally diseased person punishable by imprisonment not exceeding six months, fine not exceeding \$200, or both.</p> <p>A malady such as syphilis is a physical handicap warranting annulment. Person knowingly infected, not having Dr's certificate of cure, imprisoned not less than two years or fined not less than \$100.</p> <p>Male must present affidavit saying he is free from venereal disease and he believes the woman to be. Fine not exceeding \$100, confinement not exceeding 90 days or both.</p>	<p>Tuberculosis in its advanced stages not feeble-minded, imbeciles, epileptic, insane or drunkards.</p> <p>Application shall contain statement that neither party is afflicted with venereal disease.</p>	<p>Concealment of venereal disease is termed "adequate fraud."</p>

... by imprisonment not exceeding six months, fine not exceeding \$300, or both.

A malady such as syphilis is a physical handicap warranting annulment. Person knowingly infected, not having Dr.'s certificate of cure, imprisoned not less than two years or fined not less than \$500.

Male must present affidavit saying he is free from venereal disease and he believes the woman to be. Fine not exceeding \$100, confinement not exceeding 90 days or both.

A person knowingly violating regulation is punishable by fine not exceeding \$1000, imprisonment not exceeding three years, or both.

Clerk, physician violating law: fine not exceeding \$100, or imprisonment not over 6 months. Person illegally securing license either above punishment or both.

Any person violating provisions: fine not exceeding \$1000, imprisonment not exceeding one year, or both.

Persons obtaining license contrary to provisions given: imprisonment not less than three months, fine not less than \$100, or both.

... is incurable

... or she

... any contagious

... must fill out
... it not ar-
... contagious

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... stage, or
... in a stage
... be trans-

... ever been
... or
... granted a
... shall
... from a
... laboratory
... in a com-
... of either

Marriage declared void with person afflicted with syphilis or gonorrhoea that is incurable six months, or both.

To person knowing the person is infected with gonorrhoea or syphilis

No person of any age who is afflicted with any contagious venereal disease.

Male applicant must fill out affidavit and have it notarized showing he is not afflicted with any contagious venereal disease.

Veneral

Male

1913 \$3.00
1915 \$2.00

Yes

Syphilis, gonorrhoea, or chancre in an infectious stage, or having syphilis in a stage whereby same could be transmitted to issue.

Male

1921 (1)

Yes

No person who has ever been afflicted with gonorrhoea or syphilis shall be granted a license until they shall furnish a certificate from a designated state laboratory that they are not in a communicable stage of either disease.

1933
Sec. 40

Mont
1933
8638

Glina
1930
5088a-1.

Washington
1931
8439

Reconsin *
1935
245.10

oming
T. 1921
160, Sec. 16

No set fee.

LAWS REGULATING MISCEGENOUS MARRIAGES

Alabama

State Statutes of 1923

Constitution Section 5001.

If any white person and any negro or the descendant of any negro, to the third generation, inclusive, though one ancestor of each generation was a white person, intermarry, or live in adultery or fornication with each other, each of them must, on conviction, be imprisoned in the penitentiary for not less than two nor more than seven years.

Section 5002.

Any probate judge who issues a license for the marriage of any persons who are prohibited by the preceding section from intermarrying; knowing that they are within the provisions of that section; and any justice of the peace, minister of the gospel, or other person by law authorized to solemnize the rite of matrimony, who performs a marriage ceremony for such persons, knowing that they are within the provisions of such section, must each, on conviction, be fined not less than one hundred nor more than one thousand dollars, and may also be imprisoned in the county jail, or sentenced to hard labor

for the county for not more than six months.

Section 102.

The legislature shall never pass any law to authorize or legalize any marriage between any white person and a negro, or descendant of a negro.

Arizona

State Statutes of 1928

2166. The marriage of persons of Caucasian blood, or their descendants, with Negroes, Mongolians or Indians, and their descendants, shall be null and void.

Case in point.

A marriage between a white person and an Indian is null and void though established and existing between the parties upon an Indian Reservation. Estate of Walker (1896) 5 Arizona 70 46 Pac. 67.

2167. Marriages valid by the laws of the place where contracted, are valid in this state; provided, that marriage solemnized in that state shall have the same legal consequences and effect as if solemnized in this state, and parties residing in this state cannot evade its laws as to marriage by going into another state or country for the solemnization of the marriage ceremony.

Arkansas

Statutes of the State of Arkansas, 1921

7039. All marriages of white persons with negroes or mulattoes are declared to be illegal and void.

7049. Any minister of the gospel, priest of any religious sect or denomination, or any person purporting himself to be such, who shall solemnize the rites of matrimony contrary to the provisions of this chapter, shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be fined in any sum not less than one hundred dollars.

7065. If any clerk of any county in this State shall issue any license contrary to the provisions of this act, or any persons who are declared by law as not entitled to the same, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than five hundred.

California

Statute of the State of California, 1935

69. All marriages of white persons with negroes, Mongolians, members of the Malay race, or mulattoes are illegal and void.

69. ...no license must be issued authorizing the marriage of a white person with a negro, mulatto, Mongolian, or

member of the Malay race...For the purpose of ascertaining all the facts mentioned or required in this section, the clerk, at the time the license is applied for may, if he deems it necessary in order to satisfy himself as to matters in this section enumerated, examine the applicants for a license on oath, which examination shall be reduced to writing by the clerk, and subscribed by them.

Colorado

State Statute of 1930

4729. ...all marriages between negroes and mulattoes, of either sex, and white persons, are declared absolutely void. This section shall extend to illegitimate, as well as legitimate, children.

4730. Whosoever shall knowingly contract marriage in fact, contrary to the prohibitions in the preceding section, and whosoever shall knowingly solemnize any such marriage, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than fifty nor more than five hundred dollars, or imprisonment of not less than three months nor more than two years, or both at the discretion of the court which shall try the case.

4731. All marriages contracted without this state, which shall be valid by the laws of the country in which the same were contracted, shall be valid in all courts within

this state; Provided, Nothing in this section shall be construed so as to allow bigamy or polygamy in this state. 4734. ...Any county clerk who shall issue a license to marry any parties, one of whom shall not be at time of marriage under such license legally competent to marry, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in the sum of one hundred dollars before any court having jurisdiction.

Delaware

State Statute of 1921

2992 Section 1. ...Marriages shall not be contracted between a white person and a negro or mulatto, ...Every marriage...between white persons and a negro or mulatto, shall be void...and the guilty party thereto, or if both parties be guilty, then both shall be deemed to have committed a misdemeanor and shall be fined one hundred dollars, and in default of the payment of such fine shall be imprisoned not exceeding thirty days...If any person authorized to issue a marriage license shall knowingly or wilfully issue a license for such marriage, and if any person authorized to solemnize marriage, shall knowingly or wilfully assist in the contracting or the solemnizing of such marriage, he shall be deemed to be guilty of a misdemeanor, and shall be fined one hundred dollars, and in default of the payment of such fine shall be imprisoned not exceeding

thirty days. If a marriage prohibited by this section shall be contracted or solemnized outside of the State, when the legal residence of either party to the marriage is in this State, and the parties thereto shall afterwards live and cohabit as husband and wife within the State, they shall each be deemed guilty of a misdemeanor, and shall be punished in the same manner as though the marriage had been contracted in this State.

Florida

State Statute of 1927

5857. It shall be unlawful for any white male person residing or being in this State to intermarry with any negro female person. And it shall be in like manner unlawful for any white female person residing or being in this State to intermarry with any negro male person; and every marriage formed or solemnized in contravention of the provisions of this section shall be utterly null and void and the issue, if any, of such surreptitious marriage shall be regarded as bastard and incapable of having or receiving any estate, real, personal or mixed by inheritance.

5858. Every person who shall have one-eighth or more negro blood shall be deemed and held to be a colored person or negro.

5859. All county judges are expressly prohibited from

knowingly issuing a license to any person to intermarry against whom the disabilities in section 5857 specified may or do attach, under the penal sum of one thousand dollars, to be recovered by action of debt in any court of record having jurisdiction, for the use of the school fund.

5860. Any of the persons described in section 5853 who shall knowingly perform the ceremony of marriage between any persons who by the provisions of section 5857 are prohibited to intermarry shall in like manner forfeit and pay the penal sum of one thousand dollars, to be recovered in like manner as in the preceding section, for the use of the school fund.

Georgia

State Statutes of 1933

2941. It shall be unlawful for a white person to marry anyone except a white person. Any marriage in violation of this section shall be void.

53:9902. If any officer shall knowingly issue a marriage license to persons either of whom is of African descent and the other a white person, or if any officer or minister of the gospel shall join such persons in marriage, he shall be guilty of a misdemeanor.

53:9903. Any person, white or colored, who shall marry or go through a marriage ceremony in violation of the

provision of section 53:106 shall be guilty of a felony, and shall be punished by imprisonment in the penitentiary for not less than one year and not more than two years.

53:314. When any birth certificate, showing the birth of a legitimate child to parents one of whom is white and one of whom is colored, shall be forwarded to the Bureau of Vital Statistics, it shall be the duty of the State Board of Health to report the same to the Attorney General of the State, with full information concerning the same. Thereupon it shall be the duty of the Attorney General to institute criminal proceedings against the parents of such child for any violation of the provisions of this chapter which may have been committed.

53:212. Ordained colored ministers of the gospel may celebrate marriages between persons of African descent only, under the same terms and regulations required by the law for marriages between white persons.

53:214. All marriages solemnized in another State by parties intending at the time to reside in this State shall have the same legal consequences and effect as if solemnized in this State. Parties residing in this State may not evade any of the provisions of its laws by going into another State for the solemnization of the marriage ceremony.

53:301. The State Board of Health shall prepare a form for the registration of individuals, whereon shall be

given the racial composition of such individual, as Caucasian, Negro, Mongolian, West Indian, Asiatic Indian, Malay, or any mixture thereof, or any other non-caucasian strains, and if there shall be any mixture, the racial composition of the parents and other ancestors in so far as ascertainable, so as to show in what generation such mixture occurred. Such form shall also give the date and place of birth of the registrant, name, race and color of the parents of the registrant, together with their place of birth if known, name of husband or wife of registrant, with his or her place of birth, names of children of registrant with their ages and place of residence, place of residence of registrant for the five years immediately preceding registration, and such other information as may be prescribed for identification by the State Board of Health.

Idaho

State Statutes of 1932

31:206. All marriages hereafter contracted of white persons with Mongolians, negroes or mulattoes are illegal and void.

31:209. All marriages contracted without this state, which would be valid by the laws of the country in which the same were contracted, are valid in this state.

31:406. If any such minister or officer shall presume to solemnize any marriage between parties...with knowledge that either party is legally incompetent to contract matrimony as provided for by the laws of this state, he shall

be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars before any court having jurisdiction.

Indiana

State Statutes of 1933

9862. The following marriages are declared void:

2. When one of the parties is a white person and the other possessed of one-eighth or more of negro blood.

44:204. Every clerk of the circuit court who shall issue any license contrary to the provisions of this act shall forfeit and pay to the state of Indiana for the use of common schools, any sum that in the discretion of a jury shall seem right, to be recovered in an action of debt, in the name of the state, and it is made the duty of the prosecuting attorneys, within their respective circuits, to prosecute all such suits...

44:211. Whoever, being duly authorized to solemnize marriages in this state, knowingly joins in marriage persons who have not complied with the statute relative to the procurement of marriage licenses, shall be fined in any sum not exceeding five hundred dollars.

44:212. Every clerk of the circuit court who shall issue any license contrary to the provisions of this act shall

be fined in any sum not less than twenty-five dollars nor more than one hundred dollars.

Kentucky

State Statutes of 1933

2097. Marriage is prohibited and declared void:

2. Between a white person and a negro or mulatto.

2098. The issue of an illegal or void marriage shall be legitimate, except that the issue of...a marriage between a white person and a negro or mulatto, shall not be legitimate...

2111. If any authorized person shall knowingly, with or without license, solemnize a marriage such as is herein prohibited, he shall be imprisoned not less than one nor more than twelve months, or fined not exceeding one thousand dollars, or both.

2112. A clerk who shall knowingly issue a license for any prohibited marriage, shall be fined not less than five hundred dollars nor more than one thousand, shall be expelled from his office by the judgment of the court before which conviction is had.

2114. Any party to a marriage...between a white person and a negro or mulatto, shall be fined not less than five hundred dollars nor more than five thousand dollars, and if after conviction, the parties continue to cohabit as man and wife, they, or either of them, shall be imprisoned

not less than three nor more than twelve months in the penitentiary.

Louisiana

State Statutes of 1932

2185. Marriage between persons of the Indian race and persons of the colored race and black race is prohibited, and the celebration of all such marriages is forbidden and such celebration carries with it no effect, and is null and void.

2189. Any official issuing a license with the knowledge that the parties are thus prohibited from intermarrying and any person authorized to celebrate marriage who shall knowingly celebrate such marriage shall be deemed guilty of a misdemeanor, and shall be punished by fine or imprisonment, or both, in the discretion of the court.

2186. If any person residing and intending to continue to reside in this state who is disabled or prohibited from contracting marriage under the laws of this state shall go into another state, territory, distant possession or country and there contract a marriage prohibited and declared void by the laws of this state, such marriage shall be null and void for all purposes in this state with the same effect as though such prohibited marriage had been entered into in this state.

Criminal Code. 1128. Concubinage between a person of

Caucasian or white race and a person of the colored or black race is hereby made a felony, and whoever shall be convicted thereby in any court of competent jurisdiction, shall for each offense be sentenced to imprisonment at the discretion of the court for a term of not less than one month nor more than one year with or without hard labor.

1131. Concubinage between a person of the aboriginal Indian race of America, known as the red race, and a person of the colored or black race is hereby made a felony, and whoever shall be convicted thereof in any court of competent jurisdiction shall for each offense be sentenced to imprisonment at the discretion of the court for a term of not less than one month nor more than one year with or without hard labor.

Civil Code. 94. ...Marriage between white persons and persons of color is prohibited, and the celebration of all such marriages is forbidden and such celebration carries with it no effect and is null and void.

101. Before granting the license, the person authorized to issue the same shall require of the intended husband a bond, with a surety in a sum proportionate to his means, with condition that there exists no legal impediment to the marriage. The duration of the security is limited to two years.

Maryland

State Statutes of 1924

62:5. Before the clerk of any of the courts aforesaid shall issue any license he shall examine one of the contracting parties to the marriage, under oath, who shall appear personally before the clerk and make application for the same, and the clerk shall ascertain: ...

fourth, their color...

62.8. If in the course of the examination of any applicant for a marriage license it shall appear to the clerk of the court that any legal impediment exists under the laws of this State why the said parties shall not be joined in marriage, he shall withhold said license unless ordered by the court of which he is clerk to issue the same.

27:365. All marriages between a white person and a negro, or between a white person and a person of negro descent, to the third generation, inclusive, are forever prohibited, and shall be void; and any person violating the provisions of this section shall be deemed guilty of an infamous crime, and punished by imprisonment in the penitentiary not less than eighteen months nor more than ten years.

27:358. If any minister, pastor or other person who, according to the laws of this state do usually join people in marriage, shall upon any pretense join in marriage any

negro with any white person, he shall on conviction be fined one hundred dollars.

Missouri

Revised Statutes of 1929

2974. All marriages between...white persons and negroes or white persons and Mongolians...are prohibited and declared absolutely void.

2974. ...and it shall be unlawful for any city, county, or state official having authority to issue marriage licenses to the persons aforesaid knowing such persons to be within the prohibitions of this section shall be deemed guilty of a misdemeanor; and this prohibition shall apply to persons born out of wedlock as well as those in lawful wedlock.

Mississippi

State Statutes of 1927

1128. Any person, firm or corporation who shall be guilty of printing, publishing or circulating printed, typewritten or written matter urging or presenting for public acceptance or general information, arguments or suggestions in favor of social equality or intermarriage between whites and negroes, shall be guilty of a misdemeanor and subject to a fine not exceeding five hundred dollars or imprisonment not exceeding six months, or both fine and imprisonment.

2727. The marriage of a white person and a negro or mulatto or person who shall have one-eighth or more of negro blood, or with a Mongolian or a person who shall have one-eighth or more Mongolian blood, shall be unlawful, and such marriage shall be unlawful and void; and any party thereto, on conviction, shall be punished as for marriage within the degrees prohibited by the last two sections; and any attempt to evade this and the two preceding sections (on consanguinity) by marrying out of this state and returning to it shall be within them.

2728. ...The clerk shall take from the person who applies for the license an affidavit that there is no legal cause to obstruct the marriage for which such license is granted, which he shall preserve as a record of his office...And if any clerk shall issue a marriage license without the requisites prescribed, or any other manner than above mentioned he shall, upon conviction, be punished as for a misdemeanor.

Montana

Revised Codes of Montana of 1935

5700. Every marriage hereafter contracted or solemnized between a white person and a negro, or a person of negro blood or in part negro, shall be utterly null and void.

5701. Every marriage hereafter contracted or solemnized

between any white person and a Chinese person shall be utterly null and void.

5702. Every marriage hereafter contracted or solemnized between a white person and a Japanese person shall be utterly null and void.

5704. This section provides that the clerk should refuse to grant a license in doubtful cases, or require testimony under oath.

5704. Any person or officer who shall solemnize any such marriage within the State of Montana shall be guilty of a misdemeanor, and, upon conviction thereof, be punished by a fine of five hundred dollars, or imprisonment in the county jail for one month, or both.

Nebraska

Compiled Statutes of Nebraska for 1929

42:103. Marriages are void: First. When one party is a white person and the other is possessed of one-eighth or more negro, Japanese or Chinese blood;

42:107. If, on such testimony being given, it shall appear that either of the parties is legally incompetent to enter into such contract, or that there is any impediment in the way...the said judge shall refuse to grant a license.

42:113. ...if any person shall undertake to join others in marriage,...knowing of any legal impediment to the

proposed marriage,...he shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars, or imprisonment for a period not exceeding one year. ...or if the county judge shall wilfully and knowingly make a false record of any certificate of marriage to him made, he shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars, or imprisonment for a period not exceeding one year.

42:328. Upon the dissolution by decree or sentence of nullity of any marriage that is prohibited on account of consanguinity between parties, or of any marriage between a white person and a negro, the issue of the marriage shall be deemed to be illegitimate.

Nevada

State Statutes of 1912

6514. It shall be unlawful for any person of the Caucasian or white race to intermarry with any person of the Ethiopian or black race, Malay or brown race, Mongolian or yellow race, or the American Indian or red race, within the State of Nevada.

6515. All persons marrying contrary to the provisions of the last preceding section shall be guilty of a gross misdemeanor.

6516. Any officer, minister, priest or other person

authorized by the laws of the State of Nevada to perform ceremonies of marriage, who shall knowingly perform, or knowingly assist in the performance within the State of Nevada of any ceremony of marriage between any person of the Caucasian or white race and any person of any other race contrary to the provisions of section 249, shall be guilty of a gross misdemeanor.

6517. If any white person shall live and cohabit with any black person, mulatto, Indian, or any person of the Malay or brown race or of the Mongolian or yellow race, in a state of fornication, such persons so offending shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, and not less than one hundred dollars, or be imprisoned in the county jail not less than six months or more than one year, or both.

North Carolina

Code of 1935

2495. All marriages between a white person and a negro or Indian, or between a white person and a person of negro or Indian descent to the third generation, inclusive, or between a Cherokee Indian of Robeson county and a negro, or between a Cherokee Indian of Robeson county and a person of negro descent to the third generation, inclusive, or between any two persons nearer of kin than first cousins...shall be void. Provided double first

cousins may not marry; and provided further, that no marriage followed by cohabitation and the birth of issue shall be declared void after the death of either of the parties for any of the causes stated in this section, except for that one of the parties was a white person and the other a negro or Indian descent to the third generation, inclusive.

Case in point: Ferrall v. Ferrall 153 N. C. 174 69 S. E. 60.

In order to have a marriage annulled on the ground that it is "between a white person and a person of negro descent to the third generation inclusive", it must be shown that the ancestor of the generation stated must have been of pure negro blood.

4340. All marriages between a white person and a negro, or between a white person and a person of negro descent to the third generation inclusive, are forever prohibited, and shall be void. Any person violating this section shall be guilty of an infamous crime, and shall be punished by imprisonment in the county jail or state's prison for not less than four months nor more than ten years, and may also be fined, in the discretion of the court.

4341. If any registrar of deeds shall knowingly issue any license for marriage between any person of color and a white person; or if any clergyman, minister of the gospel or justice of the peace shall knowingly marry any such person of color to a white person, the person so offending shall be guilty of a misdemeanor.

North Dakota

Compiled laws of 1914.

9582. It shall be unlawful for any white male person, residing or being in this state, to intermarry with any negro female person; and it shall be in like manner unlawful for any white female person, residing or being in this state, to intermarry with any negro male person, and every marriage hereafter formed and solemnized in contravention of the provisions of this section shall be utterly null and void, and either or both of contracting parties to such surreptitious marriage shall be punished by imprisonment in the state penitentiary for a term not exceeding ten years, or by a fine not exceeding two thousand dollars, or by both fine and imprisonment.

9582. Every person who shall have one-eighth or more of negro blood shall be deemed and held to be a colored person or negro.

9584. If any county judge shall knowingly issue a marriage license for a white person to marry a negro person, within the meaning of section 9583, he shall be punished by imprisonment in the state penitentiary for a term not exceeding two years or by a fine not exceeding two thousand dollars, or by both fine and imprisonment.

9585. If any judge, justice of the peace, priest or any person authorized to solemnize the rites of matrimony shall knowingly perform the ceremony of marriage for any

white person with a negro person within meaning of this chapter, he shall be punished by imprisonment in the state penitentiary for a term not exceeding two years or by a fine not exceeding two thousand dollars, or by both fine and imprisonment.

9587. Any negro man and white woman or any white man and negro woman who are not lawfully married to each other who shall live in and occupy the same room, shall each be punished by imprisonment in the state penitentiary for a term not exceeding twelve months or by a fine not exceeding five hundred dollars, or by both fine and imprisonment.

9588. If any white person and negro shall live in adultery or fornication with each other, each shall be punished by imprisonment in the state penitentiary for a term not exceeding twelve months or by a fine not exceeding five hundred dollars, or by both fine and imprisonment.

Oklahoma

Revised laws of 1910

3894. The marriage of any person of African descent, as defined by the constitution of this State, to any person not of African descent, or the marriage of any person not of African descent to any person of African descent, shall be unlawful and is hereby prohibited within this State.

3895. Any person who shall marry in violation of the preceding section shall be deemed guilty of a felony, and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars, and imprisonment in the penitentiary not less than one nor more than five years.

3896. Any minister of the gospel, or other person authorized to solemnize the rite of matrimony within this State, who shall knowingly solemnize the rites of matrimony between persons prohibited by this chapter from intermarrying shall be deemed guilty of a felony, and upon conviction thereof, shall be fined in any sum not exceeding five hundred dollars and imprisonment in the penitentiary not less than one nor more than five years.

3897. Any county judge or clerk of the county court knowingly issuing any marriage license, or concealing any record thereof, contrary to the provisions of this chapter, or any person knowingly performing or solemnizing the marriage ceremony, contrary to any of the provisions of this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment.

Oregon

Annotated Code of 1930.

14:840. Hereafter it shall not be lawful within this state for any white person, male or female, to intermarry with any negro, Chinese, or any person having one-fourth or more negro, Chinese, or Kanaka blood, or any person having more than one-half Indian blood; and all such marriages, or attempted marriages, shall be absolutely null and void.

14:841. If any white person, negro, Chinese, Kanaka, or Indian, within the degrees forbidden in section 14:840, shall knowingly intermarry, or attempt the same by procuring a solemnization of marriage, under any of the forms or ceremonies legalized in this state, such person or persons, upon conviction thereof, shall be punished by imprisonment in the penitentiary or county jail not less than three months nor more than one year.

14:842. If any person authorized to license marriages or to solemnize marriages within this state shall willfully or knowingly license, marry, or attempt to marry any of the persons forbidden to marry by section 14:840, such person or persons, upon conviction thereof, shall be imprisoned in the penitentiary or county jail not less than three months nor more than one year, and be fined not less than one hundred dollars, nor more than one thousand dollars.

South Carolina

Code of South Carolina of 1933

1438. It shall be unlawful for any white man to intermarry with any woman of either the Indian or negro races, or any mulatto, mestizo, or half-breed, or for any white woman to intermarry with any person other than a white man, or for any mulatto, half-breed, Indian, negro or mestizo to intermarry with a white woman; and any such marriage, or attempted marriage, shall be utterly null and void and of none effect; and any person who shall violate this section, or any one of the provisions thereof, shall be punished by a fine of not less than five hundred dollars, or imprisonment for not less than twelve months, or both, in the discretion of the court. Any clergyman, minister of the gospel, magistrate, or other person authorized by law to perform the marriage ceremony, who shall knowingly and wilfully unite in the bonds of matrimony any persons of different races, as above prohibited shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to the same penalty or penalties as provided in this section.

8571. It shall be unlawful for any white man to intermarry with any woman of either the Indian or negro races, or any mulatto, mestizo, or half-breed, or for any white woman to intermarry with any person other than a white

man, or for any mulatto, half-breed, negro, Indian or mestizo to intermarry with a white woman, and any such marriage, or attempted marriage, shall be utterly null and void and of no effect.

State Constitution of 1895.

Article 3, section 33. The marriage of a white person with a negro or mulatto, or person who shall have one-eighth or more negro blood shall be unlawful and void.

South Dakota

Compiled laws of 1929

128. The intermarriage or illicit cohabitation of any person belonging to the African, Corean, Malayan, or Mongolian race, with any person of the opposite sex belonging to the Caucasian or White race, is prohibited, and any person who shall enter into any such marriage, or who shall indulge in any such illicit cohabitation shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine of not exceeding one thousand dollars or by imprisonment in the state penitentiary for a term not exceeding ten years, or both such fine and imprisonment.

129. No license intended to authorize any marriage prohibited by the preceding section shall be granted or issued in this state, and no such marriage, either with or without such license, shall be solemnized or performed

in this state. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

130. Any marriage entered into or solemnized, contrary to the provisions of section 128, shall be, and the same is hereby, deemed and declared null and void from the beginning.

Tennessee

Code of 1932

8409. The intermarriage of white persons with negroes, mulattoes, or persons of mixed blood descended from a negro, to the third generation inclusive, or their living together as man and wife in this state is prohibited.

8410. The person knowingly violating the provisions of the last section shall be guilty of a felony, and undergo imprisonment in the penitentiary not less than one nor more than five years; and the court may, on the recommendation of the jury, substitute, in lieu of punishment in the penitentiary, fine and imprisonment in the county jail.

8418. Any clerk or deputy who shall issue a marriage license without compliance, in good faith, with the provisions of this law shall be guilty of a misdemeanor and shall be punishable by a fine not less than one hundred dollars and not more than five hundred dollars.

8419. Failure to comply with requirements of this law,

however, shall not affect the validity of any marriage consummated by ceremony.

8423. If any such minister or officer knowingly joins together in matrimony two persons not capable thereof, he shall be guilty of a misdemeanor, and shall also forfeit and pay the sum of five hundred dollars, to be recovered by action of debt, for the use of the person suing.

Texas

Statutes of 1936

Civil code:

4607. It shall not be lawful for any person of Caucasian blood or their descendants to intermarry with Africans or the descendants of Africans. If any person shall violate any provision of this article, such marriage shall be null and void.

Penal code:

492. If any white person and negro shall knowingly intermarry with each other in this State, or having so intermarried in or out of the State shall continue to live together as man and wife within this State, they shall be confined in the penitentiary not less than two or more than five years.

493. The term "negro" includes also a person of mixed blood descended from negro ancestry from the third gen-

eration inclusive, though one ancestor of each generation may have been a white person. Any person not included in the foregoing definition is deemed a white person within the meaning of this law.

Utah

Revised Statutes of 1933

40:1:2. The following marriages are prohibited and declared void:

5. between a negro and a white person
6. between a Mongolian and a white person.

40:1:15. If any person knowingly, with or without license, solemnizes a marriage such as is herein prohibited, he shall be imprisoned in the State prison not exceeding three years, or fined not exceeding one thousand dollars, or be both so fined and imprisoned.

40:1:16. Every clerk or deputy clerk who knowingly issues a license for any prohibited marriage shall be punished by confinement in the state prison for a term not exceeding two years, or by fine in any sum not exceeding one thousand dollars, or by both such fine and imprisonment, and upon conviction shall be removed from his office by the judgment of the court before which his conviction is had, and if he wilfully issues a license contrary to his duty as herein prescribed, he shall be fined not exceeding one thousand dollars.

Virginia

Code of 1930

4546. If any white person intermarry with a colored person, or any colored person intermarry with a white person, he shall be confined in the penitentiary not less than two nor more than five years.

4547. If any person perform the ceremony of marriage between a white person and a colored person, he shall forfeit two hundred dollars, of which the informer shall have one-half.

West Virginia

Code of 1931

Ch. 48:19. Any white person who shall intermarry with a negro shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than one year. Any person who shall knowingly perform the ceremony of marriage between a white person and a negro shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined, not exceeding two hundred dollars.

Ch. 48:20. If any clerk of the county court shall knowingly issue a marriage license contrary to law, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding five hundred dollars, or confined in jail not more than one year, or both, at the discretion of the court.

Wyoming

Revised Statutes of 1931

68:118. All marriages of white persons with Negroes, Mulattoes, Mongolians or Malays hereafter contracted in the state of Wyoming are and shall be illegal and void.

68:119. Whosoever shall knowingly contract marriage in fact contrary to the prohibitions in the preceding section, and whosoever shall knowingly solemnize any such marriage shall be deemed guilty of a misdemeanor, and upon being convicted thereof, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or imprisonment of not less than one year nor more than five years, or both at the discretion of the court which shall try the case.

LAWS REGULATING MARRIAGES ENTERED IN THE

	Marriage between White persons and designated races prohibited	Effect given such marriages	Status of Child	PENALTY		
				Grade of Offense	Punishment	Other
102.	"Negro or descendent of a negro to the third generation inclusive, though one ancestor of each generation was a white person."	Parties each guilty of a felony			2-7 years	
-7	"Negroes, Mongolians, or Indians"	"Null and void"				
& Moses,	"Negroes or mulattoes"	"Illegal and void"				
49,7065	"Negroes, Mongolians, Mulattoes or Malays"	"Illegal and void"				
ing's	"Negroes or Mulattoes"	"Absolutely void"				
4730,	"Negro or Mulatto"	"Void"				
7 60	"Any negro" (person having one-eighth or more of negro blood)	"Utterly null and void"	"Bastard"			
06	"Persons of African descent." "All negroes, mulattoes, mestizos, and their descendants, having any ascertainable trace of either negro or African descent."	"Null and void" "Utterly void"		felony		

<p>\$50-\$200</p> <p>Misdemeanor</p> <p>to \$500</p> <p>to \$1000</p> <p>and/or</p> <p>1-12 mo.²</p> <p>Fine²</p> <p>Imprisonment²</p> <p>\$100</p>	<p>Misdemeanor</p> <p>Misdemeanor</p>	<p>\$25-\$100</p> <p>\$500-\$1000</p> <p>Expelled from</p> <p>office</p> <p>Fine²</p> <p>or</p> <p>Imprisonment²</p> <p>As for</p> <p>Misdemeanor</p>	<p>Misdemeanor</p> <p>or</p> <p>Misdemeanor</p>	<p>\$500-\$5000</p> <p>3 - 12 mo.</p> <p>18 mo. to</p> <p>10 yrs.</p>	<p>Infamous</p> <p>crime</p>	<p>Illegite-</p> <p>mate²</p>	<p>and</p> <p>at any legal</p> <p>things</p> <p>utely void</p> <p>and</p> <p>iled and</p> <p>ed void"</p> <p>as affect"</p> <p>and</p>
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9902,9903,106,
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Idaho
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C.C. Sec. 1138,
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Maryland
A.C. 1924
Ch.62, Sec. 5,8
Ch.27, Sec.365,
358.

Mississippi
Heningway's A.C.
1927
Sec.2727-28

ascertainable trace of either negro
or African, West Indian or Asiatic
Indian, blood in their veins."
Mongolians.

"Mongolians, negroes or mulattoes"

"Persons having one-eighth or more
of negro blood."

"Negro or mulatto"

"Persons of color." Intermarriage
of Indians and blacks prohibited

"Negro, or a person of negro de-
scent to the third generation
inclusive"

"Negro or mulatto or Mongolian,
or person having one-eighth or
more of negro or Mongolian blood

"Illegal and
void"

"Absolutely void
without any legal
proceedings"

"Prohibited and
declared void"
"illegite-
mate"

"Have no effect"
are "null and
void"

"Void and a
felony"

"Unlawful and
void"

Infamous
crime

Legitimate if not otherwise indicated
At the discretion of the court.

LAWS REGULATING MISCEGENOUS MARRIAGES IN THE UNITED STATES

	Marriage between White persons and designated races prohibited	Effect given such marriages	Status of child	Penalty	
				Grade of offense	Punishment
	"Persons having "One-eighth part or more of negro blood." "Mongolian"	Prohibited and declared absolutely void"	"Illegitimate"		
	"Negro or a person of negro blood or in part negro."#Chinese person" "Japanese Person"	Utterly null and void			
103,	Person having "One-eighth or more negro, Japanese, or Chinese blood"	"Void"			
	Any person "of the Ethiopian or black race, Malay or brown race, or Mongolian or yellow race or American Indian or red race."	Unlawful and a gross misdemeanor		Gross misdemeanor	
na	"Negro or Indian"; "or person of negro or Indian descent to the third generation inclusive. "Marriage between a Cherokee Indian of Robinson County and a negro is prohibited."	"Void"		Infamous crime	4 mo. - 10 yrs. fine
40.	"Negro" (Persons having one-eighth or more of negro blood)	"Utterly null and void"			To \$5000 and/or to 10 yrs.
	"Any person of African descent"	"Unlawful" and "prohibited"	Felony	To \$500 and 1 - 5 yrs. 3 mo. - 1 yr.	
340-2	"Any negro, Chinese, or any person having one-fourth or more negro, Chinese, or Kanaka blood"	"Absolutely null and void"			

VIOUS MARRIAGES IN THE UNITED STATES (Cont.)

PENALTIES

Married Couple		License Issuer		Solemnizer of Ceremony	
Punishment	Grade of Offense	Punishment	Grade of Offense	Punishment	Grade of Offense
	Misdemeanor		Misdemeanor	\$500 and 1 month ²	Misdemeanor
	Misdemeanor	To \$500 and to 1 yr. ²	Misdemeanor	To \$500 and to 1 yr. ²	Misdemeanor
	Misdemeanor		Gross misdemeanor		
4 mo. - 10 yrs. fine ²	Misdemeanor		Misdemeanor		
To \$2000 and/or to 10 yrs. ²		To \$2000 and/or to 10 yrs. ²		To \$2000 and/or to 10 yrs. ²	
To \$500 and 1 - 5 yrs.	Misdemeanor	\$100 to \$500 and/or 30 days-1 yr.		To \$500 and 1 - 5 yrs.	Felony
		\$100-\$1000		\$100-\$1000	

<p>Misdemeanor 3 mo-1 yr. \$500 up and/or 12 mo. up²</p>	<p>Misdemeanor To \$1000 and/or to 3 yrs.</p>	<p>\$200 To \$200.</p>	<p>Misdemeanor To \$100-\$1000 and/or 1 - 5 yrs.</p>
<p>Misdemeanor To \$1000³ and/or to 2 yrs.</p>	<p>Misdemeanor To \$500 and/or to 1 year.</p>	<p>Misdemeanor To \$100-\$500</p>	<p>Misdemeanor</p>
<p>Misdemeanor To \$500 up and/or 12 mo. up²</p>	<p>Misdemeanor To \$1000 and/or to 10 yrs.</p>	<p>Misdemeanor 1-5 yrs. or fines</p>	<p>Misdemeanor 2 - 5 yrs.</p>
<p>Misdemeanor \$500 up and/or 12 mo. up²</p>	<p>Felony To \$1000 and/or to 10 yrs.</p>	<p>Felony 1-5 yrs. or fines</p>	<p>Misdemeanor 2 - 5 yrs.</p>
<p>Misdemeanor To \$500 up and/or 12 mo. up²</p>	<p>Felony To \$1000 and/or to 10 yrs.</p>	<p>Felony 1-5 yrs. or fines</p>	<p>Misdemeanor To \$100-\$1000 and/or 1 - 5 yrs.</p>

<p>1 - 5 1931 2 - 5 1931 3 - 5 1931 4 - 5 1931 5 - 5 1931 6 - 5 1931 7 - 5 1931 8 - 5 1931 9 - 5 1931 10 - 5 1931 11 - 5 1931 12 - 5 1931 13 - 5 1931 14 - 5 1931 15 - 5 1931 16 - 5 1931 17 - 5 1931 18 - 5 1931 19 - 5 1931 20 - 5 1931 21 - 5 1931 22 - 5 1931 23 - 5 1931 24 - 5 1931 25 - 5 1931 26 - 5 1931 27 - 5 1931 28 - 5 1931 29 - 5 1931 30 - 5 1931 31 - 5 1931 32 - 5 1931 33 - 5 1931 34 - 5 1931 35 - 5 1931 36 - 5 1931 37 - 5 1931 38 - 5 1931 39 - 5 1931 40 - 5 1931 41 - 5 1931 42 - 5 1931 43 - 5 1931 44 - 5 1931 45 - 5 1931 46 - 5 1931 47 - 5 1931 48 - 5 1931 49 - 5 1931 50 - 5 1931 51 - 5 1931 52 - 5 1931 53 - 5 1931 54 - 5 1931 55 - 5 1931 56 - 5 1931 57 - 5 1931 58 - 5 1931 59 - 5 1931 60 - 5 1931 61 - 5 1931 62 - 5 1931 63 - 5 1931 64 - 5 1931 65 - 5 1931 66 - 5 1931 67 - 5 1931 68 - 5 1931 69 - 5 1931 70 - 5 1931 71 - 5 1931 72 - 5 1931 73 - 5 1931 74 - 5 1931 75 - 5 1931 76 - 5 1931 77 - 5 1931 78 - 5 1931 79 - 5 1931 80 - 5 1931 81 - 5 1931 82 - 5 1931 83 - 5 1931 84 - 5 1931 85 - 5 1931 86 - 5 1931 87 - 5 1931 88 - 5 1931 89 - 5 1931 90 - 5 1931 91 - 5 1931 92 - 5 1931 93 - 5 1931 94 - 5 1931 95 - 5 1931 96 - 5 1931 97 - 5 1931 98 - 5 1931 99 - 5 1931 100 - 5 1931</p>	<p>Misdemeanor</p> <p>Misdemeanor</p> <p>Felony</p> <p>Felony</p> <p>Misdemeanor</p>	<p>"Utterly null and void and of no effect"</p> <p>"Declared to be null and void from the beginning"</p> <p>"Prohibited and unlawful"</p> <p>"Null and void"</p> <p>"Prohibited and declared void"</p> <p>"Absolutely void without any decree or divorce or nullity"</p> <p>"Void from the time they are declared so by a decree of divorce or nullity"</p> <p>"Illegal and void"</p>	<p>"Any person belonging to the African, Korean, Malayan, or Mongolian race"</p> <p>"Negroes, mulattoes, or persons of mixed blood descended from a negro to the third generation inclusive"</p> <p>"African or the descendants of African or the descendants of African"</p> <p>"Negro or Mongolian"</p> <p>"Colored person; person having other than Caucasian blood in more than the sixteenth degree"</p> <p>"Negroes, mulattoes, Mongolians, or Malays"</p>	<p>South Carolina C.L. 1933 Sec. 1438, 8571 S.C. 1895, Art 3 Sec. 38.</p> <p>South Dakota C.L. 1929 Sec. 128-30</p> <p>Tennessee C. 1932 Sec. 8409, 8418 8423</p> <p>Texas Vernon's Statutes 1936. C.C. 4607 P.C. 492-3</p> <p>Utah R.S. 1933 Ch. 40 Sec. 1, art 2, 15, 16</p> <p>Virginia C. 1930 Art. 4546-7</p> <p>West Virginia C. 1931. Ch. 48, Sec. 19-20</p> <p>Wyoming W.S. 1931 Ch. 66, Sec. 118-9</p>	<p>840-2 14, Sec. 840-2 Chinese, or Kanaka blood, or more than one-half Indian blood.</p>
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1. Legitimate if not otherwise indicated
 2. At the discretion of the court.
 3. Shall be removed from his office by the judgment of the court."

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