

the quantity he represents, when, as buyer, he furnishes the weight, measure, or weighing or measuring device, by means of which the amount of commodity is determined; or who shall sell or offer or expose for sale, or keep for the purpose of sale any commodity in a manner contrary to law; or who shall violate any provision of section 1658 to sections 1670a inclusive, for which a specific penalty has not been prescribed; shall be punished by a fine of not more than twenty-five dollars, or by imprisonment in the county jail not more than ten days, or by both such fine and imprisonment.

SECTION 3. This act shall take effect upon passage and publication.

Approved May 14, 1917.

No. 141, S.]

[Published May 17, 1917.

CHAPTER 218

AN ACT to repeal sections 2333, 2334, 2335, 2336, 2337, 2338, 2339a, 2339b, 2339c, 2339d, 2339e, 2339f, 2339g, 1022—47, 1022—48, 1022—49, and 4594, of the statutes; to amend section 2274, subsection 1 of section 2330, and section 2443; to create sections 2339n—1 to 2339n—27, inclusive, of the statutes, relating to the regulation of marriage and marriage licenses, and to promote uniformity between the states in reference thereto and providing penalties.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Sections 2333, 2334, 2335, 2336, 2337, 2338, 2339a, 2339b, 2339c, 2339d, 2339e, 2339f, 2339g, 1022—47, 1022—48, 1022—49, and 4594, of the statutes, are repealed.

SECTION 2. Section 2274, subsection 1 of section 2330, and section 2443 of the statutes are amended to read: Section 2274. Every illegitimate child shall be considered as heir of the person who shall, in writing signed in the presence of a competent witness, have acknowledged himself to be the father of such child or who shall be adjudged to be such father under the provisions of sections 1530 to 1542, inclusive, of the statutes, or who shall admit in open court that he is such father, and shall in all cases be considered as heir of his mother, and shall inherit his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he shall not be allowed to claim, as representing his father or mother any part of the estate of his or her kindred, either lineal or collateral, unless before his death * * * *he shall have been legitimated by the marriage of his parents in the manner prescribed by law.*

Section 2330. 1. No marriage shall be contracted while either of the parties has a husband or wife living, nor between persons who are nearer of kin than second cousins, computing by the rule of the civil law, whether of the half or of the whole blood; and no insane person, *epileptic* or idiot shall be capable of contracting marriage.

Section 2443. The jurisdiction of the county court shall extend to the probate of wills and granting letters *testamentary* and of administration on the estates of all persons deceased who were at the time of their decease inhabitants of or residents in the same county and of all who shall die without the state having any estate within such county to be administered, and to any other cases authorized by law; to the appointment of guardians to minors and others in the cases prescribed by law; to all matters relating to the settlement of the estates of such deceased persons and of such minors and others under guardianship; to all cases of constructions of wills admitted to probate in such court; and to all cases of trusts and trust powers created by will admitted to probate in such court; *and to hearing objections to the granting of licenses to marry, to ordering the refusal of such licenses, and to the granting of stays upon the issuance thereof,* and such court shall have and exercise such other jurisdiction and powers as are or may be conferred by law.

SECTION 3. There are added to the statutes twenty-seven new sections to read: Section 2339n—1. Marriage may be validly contracted in this state only after a license has been issued therefor, in the manner following:

(1) Before any person authorized by the laws of this state to celebrate marriages (and hereinafter designated as the officiating person), by declaring in the presence of at least two competent witnesses other than such officiating person, that they take each other as husband and wife; or,

(2) In accordance with the customs, rules and regulations of any religious society, denomination or sect to which either of the parties may belong, by declaring in the presence of at least two competent witnesses, that they take each other as husband and wife.

Section 2339n—2. No persons shall be joined in marriage within this state until a license shall have been obtained for that purpose from the county clerk of the county in which one of the parties resides; provided that if both parties be nonresidents of the state, such license may be obtained from the county clerk of the county where the marriage ceremony is to be performed.

Section 2339n—3. Application for a marriage license shall be

made at least five days before a license shall be issued; provided, that, upon application of either of the parties to a proposed marriage, any judge of a court of record, may, upon satisfactory evidence being presented to him that either of the parties to the proposed marriage is dangerously ill, such illness being likely to result in death, or that the female is pregnant with child, or upon the request of the parent or parents or guardian, if any, of the female, by order authorize the license to be issued at any time before the expiration of said five days. The person applying for such order or dispensation shall have been a resident of the state for at least thirty days prior to making such application. Such order shall be delivered to the person issuing the license and by him retained as prima facie evidence of his authority to so issue the marriage license. The judge or court making such order shall not receive any compensation therefor from the county, but may charge the person applying for such order a sum not to exceed two dollars, which sum shall be paid into the county treasury for the use of the county.

Section 2339n—4. No license shall be issued unless both of the contracting parties shall be identified to the satisfaction of the proper county clerk, who shall further require of the parties, either separately or together, a statement under oath relative to the legality of the contemplated marriage; the date of same; the names; relationship, if any; age; nationality; color; residence and occupation of the parties; the names of the parents, guardians, or curators of such as are under the age of legal majority; any prior marriage or marriages of the parties, or either of them, and the manner of the dissolution thereof; and if there be no legal objection thereto, such county clerk shall issue a marriage license in the form hereinafter prescribed. Or, the parties intending marriage may, either separately or together, appear before any officer authorized by law to administer oaths in the county (whether in this or any other state) wherein either of the contracting parties resides, or in the county where the marriage is to be performed, who shall require of them a statement under oath as above provided; and such statement, having been duly subscribed and sworn to and the parties having been duly identified, shall be forwarded to the proper county clerk, who, if satisfied after an examination thereof, that the same is in proper legal form, and that no legal objection to the contemplated marriage exists, shall issue a license therefor.

Section 2339n—5. No license shall be issued if either of the contracting parties be under the marriageable age of consent as established by law. If either of the contracting parties be be-

tween the marriageable age of consent as established by law, and the age of legal majority; to wit, between eighteen years and twenty-one years if a male, and between fifteen years and eighteen if a female, no license shall be issued without the consent of his or her parents, guardian, or curator, or of the parent having the actual care, custody and control of such minor or minors, given before the county clerk under oath, or certified under the hand of such parents, guardian or curator as aforesaid, and properly verified by affidavit before a notary public or other official authorized by law to take affidavits, which certificate shall be filed of record in the office of said county clerk and entered by him on the marriage license docket before issuing said license; provided, that if there be no guardian or curator of either or both of such minors, or if there be no competent person having the actual care, custody and control of such minor or minors, then the judge of the court of the residence of the minor having probate jurisdiction may, after hearing, upon proper cause shown, make an order allowing the marriage of such minor or minors.

Section 2339n—6. Immediately upon entering an application for a license, the county clerk shall post in his office a notice giving the names and residences of the parties applying therefor, and the date of the application. Any person believing that the statements of the application are false or insufficient, or that the applicants or either of them are incompetent to marry, may file with the court having probate jurisdiction in the county in which the license is applied for, a petition under oath, setting forth the grounds of objection to the marriage and asking for a rule upon the parties making such application to show cause why the license should not be refused. Whereupon, said court, if satisfied that the grounds of objection are prima facie valid, shall issue a rule to show cause as aforesaid, returnable as the court may direct, but not more than ten days from and after the date of said rule, which rule shall be served forthwith upon the applicants for such license, and upon the clerk before whom such application shall have been made, and shall operate as a stay upon the issuance of the license until further ordered. If, upon hearing, the objections be sustained, the court shall make an order refusing the license, the costs to rest in the discretion of the court; but if the objections be overruled, the party or parties filing the same shall be liable for all costs of the proceedings.

Section 2339n—7. Any person who shall, in any affidavit or statement required or provided for by sections 2339n—4, 2339n—5, or 2339n—6, wilfully and falsely swear, or who shall pro-

cure 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, or as to the ages of such parties, if minors, or who shall falsely pretend to be the parent, guardian or curator, having authority to give consent to the marriage of such minor, 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.

Section 2339n—8. Any county clerk who shall knowingly issue a marriage license contrary to, or in violation of the provisions of sections 2339n—1 to 2330n—27, [2339n—27] inclusive, of the statutes, 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.

Section 2339n—9. The state registrar of vital statistics shall prescribe model forms for blank applications, statement, consent of parents, affidavits, licenses, and marriage certificates and other such forms as shall be necessary to comply with the provisions of this act and shall furnish to the county clerk of each county, at the expense of the county, all of the aforesaid blanks, together with a suitable book to be called the marriage license docket, which said county clerk shall keep in his office among his records, and enter therein a complete record of the applications for, and the issuing of all marriage licenses, and of all other matters which he is required by this act to ascertain relative to the rights of any person to obtain a license. Said marriage license docket shall be open for public inspection or examination at all times during office hours. All funds received by the state registrar of vital statistics under the provisions of section 2339n—9 of the statutes shall be paid into the state treasury within one week of their receipt and all such moneys are appropriated to the state board of health to carry into effect the provisions of section 2339n—9 of the statutes.

Section 2339n—10. The license shall authorize the marriage ceremony to be performed in any county of this state, excepting that where both parties are nonresidents of the state, the ceremony shall be performed only in the county in which the license is issued. The license shall be directed "to any person authorized by the law of this state to solemnize marriage," and shall authorize him to solemnize marriage between the parties therein

named, at any time not more than thirty days from and after the date thereof. If the marriage is to be solemnized by the parties without the presence of an officiating person, as provided by subsection 2 of section 2339n—1, the license shall be directed to the parties to the marriage. If either of the parties be not of the age of legal majority, then his or her age shall be stated; and the fact of the consent of his or her parents, guardian or curator, shall likewise be stated; and if either of said parties shall have been theretofore married, then the number of times he or she shall have been previously married, and the manner in which the prior marriage or marriages was or were dissolved, shall be stated. The officiating person shall satisfy himself that the parties presenting themselves to be married by him are the parties named in the license; and if he knows of any legal impediment to such marriage, he shall refuse to perform the ceremony. The issue of a license shall not be deemed to remove or dispense with any legal disability, impediment or prohibition rendering marriage between the parties illegal, and the license shall contain a statement to that effect.

Section 2339n—11. Said license shall be in form substantially as follows:

State of Wisconsin

County of _____

}
} ss.

No. _____

To any person authorized by the laws of this state to solemnize marriage:

You are hereby authorized at any time not more than thirty days from and after the date hereof, within the state of Wisconsin (not knowing any legal impediment thereto), to join together in marriage in accordance with the laws of this state, A_____ B_____ aged _____, and never heretofore married, (or married on the _____ day of _____, A. D. _____, to E_____ F_____, said E_____ F_____ having died on the _____ day of _____, A. D. _____; or, said A_____ B_____, having been divorced from said E_____ F_____ by the court of the _____ of _____ state of _____, on the _____ day of _____, A. D. _____) and C_____ D_____, aged _____, and never heretofore married, (or married on the _____ day of _____, A. D. _____, to G_____ H_____, said G_____ H_____ having died on the _____ day of _____, A. D. _____; or said C_____ D_____, having been divorced from said G_____ H_____ by the court of _____ of the _____ of _____, state of _____, on the _____ day of _____, A. D. _____), the consent of _____, the _____

of the said A ----- B-----, and of -----, the ----- of the said C ----- D-----, having been duly given. The issue of this license shall not be deemed to remove or dispense with any legal disability, impediment or prohibition rendering marriage between the parties illegal.

Given under my hand and the seal of the county clerk of ----- county, at -----, state of Wisconsin, this ----- day of -----, Anno Domini, one thousand nine hundred and -----
(Seal)

Marriage License Clerk.

Section 2339n—12. If the marriage is to be solemnized by the parties without an officiating person, as provided by subsection 2 of section 2339n—1, the license shall be in form substantially as follows:

State of Wisconsin

County of -----

{ ss.

To A----- B-----, aged -----, and C----- D----- aged -----:

This is to certify that, legal evidence having been furnished to me as required by law, and the consent of ----- the----- of said A----- B-----, and of ----- the----- of the said C----- D----- having been duly given, I am satisfied there is no legal impediment to your joining yourselves in marriage in accordance with the customs, rules and regulations of any religious society, denomination or sect to which you, or either of you, may belong, at any time not more than thirty days from and after the date hereof, within the state of Wisconsin.

The issue of this license shall not be deemed to remove or dispense with any legal disability, impediment or prohibition rendering marriage between you illegal.

Given under the hand and seal of the county clerk of ----- county, at -----, state of Wisconsin, this ----- day of ----- Anno Domini one thousand nine hundred and -----
(Seal)

Marriage License Clerk.

Section 2339n—13. The license shall have appended to it three certificates, numbered to correspond with the license (one marked "original," one marked "duplicate," and one marked "triplicate"), which shall be in form substantially as follows:

MARRIAGE CERTIFICATE

I, -----, hereby certify that on the ----- day of ----- Anno Domini one thousand nine hundred and -----, at -----

in the _____ of _____, state of Wisconsin, A_____ B_____ of _____, state of _____ and C_____ D_____, of _____, state of _____, were by me united in marriage as authorized by a marriage license issued for that purpose by the county clerk of _____ county and state of Wisconsin, numbered _____, and dated the _____ day of _____, A. D. 19_____

Signed _____

(Official designation) _____

We, the undersigned, were present at the marriage of A_____ B_____ and C_____ D_____, as set forth in the foregoing certificate, at their request, and heard their declarations that they took each other for husband and wife.

E_____ F_____

G_____ H_____

But, if, as provided by section 2339n—12, the license has been issued to the parties themselves, then the certificate (in triplicate) shall be in form substantially as follows:

MARRIAGE CERTIFICATE

We hereby certify that on the _____ day of _____ Anno Domini one thousand nine hundred and _____, we united ourselves in marriage in accordance with the customs, rules and regulations of the _____ at _____, in the _____ of _____ and state of Wisconsin, having first obtained from the county clerk of the county of _____, state of Wisconsin, a marriage license numbered _____ and dated the _____ day of _____, A. D. 19_____, certifying that he was satisfied there was no legal impediment to our so doing.

A_____ B_____

C_____ D_____

We, the undersigned, were present at the marriage of A_____ B_____ and C_____ D_____, as set forth in the foregoing certificate, at their request, and heard their declarations that they took each other as husband and wife.

E_____ F_____

G_____ H_____

The blank form for the certificate in each case shall also provide space for the entry of the following items: information concerning which it shall be the duty of the county clerk to acquire and enter in its proper place on the certificate at the time when the license is issued, the full name, age, color, place of residence, place of birth, occupation, and, if known, the father's name, and mother's name of each of the parties married; the number of times either of the parties may have been previously married and

condition of each, whether single, widowed, or divorced; the bride's maiden name, in case she is a widow; together with such other statistical items as may, from time to time, be prescribed by the registrar of vital statistics. The triplicate certificate in each case shall contain the following words: "N. B. This triplicate certificate, legibly and completely filled out with unfading ink, must be returned to the local registrar of vital statistics within three days from the date of the marriage. Maximum penalty for non-compliance, \$200."

Section 2339n—14. The marriage certificates marked "original" and "duplicate," duly signed, shall be given by the officiating person to the persons married by him; and the certificate marked "triplicate," legibly and completely filled out with unfading ink, shall be returned by such officiating person, or, in the case of a marriage ceremony performed without an officiating person, then by the parties to the marriage contract, or either of them to the local registrar of vital statistics of the city, unincorporated village or town in which said marriage was performed, within three days after the date of said marriage. The marriage license shall be retained by the person who solemnizes the marriage, or in case of a marriage performed without an officiating person, by the parties to the marriage contract, or either of them, to be prima facie evidence of authority to perform the marriage ceremony.

Section 2339n—15. If any officiating person shall solemnize a marriage unless the contracting parties shall first have obtained a proper license as hereinbefore provided; or unless the parties to such marriage declare that they take each other as husband and wife; or without the presence of two competent witnesses; or, in the case of a minor or minors, unless the consent, as hereinbefore provided, of the parent, guardian or curator of such minor or minors be stated in such license; or shall solemnize a marriage knowing of any legal impediment thereto; or shall solemnize a marriage more than thirty days from and after the date of the license; or shall falsely certify to the date of a marriage solemnized by him; or shall solemnize a marriage in a county other than the county prescribed in section 2339n—10, he shall be guilty of a misdemeanor, and, on 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 for not more than one year, or by both such fine and imprisonment.

Section 2339n—16. Where a marriage is solemnized without the presence of an officiating person, then, and in that case, if

the parties to such marriage shall solemnize the same more than thirty days from and after the date of the license; or shall falsely certify to the date of such marriage; or shall solemnize the same in a county other than the county prescribed in section 2339n—10, they or either of them shall be guilty of a misdemeanor, and on 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 for not more than one year, or by both such fine and imprisonment.

Section 2339n—17. If any person, not being duly authorized by the laws of this state, shall wilfully or knowingly undertake to solemnize a marriage in this state, or if any person shall participate in or in any way aid or abet any false or fictitious marriage, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Section 2339n—18. Every officiating person, or persons marrying without the presence of an officiating person, as provided by subsection 2 of section 2339n—1, who shall neglect or refuse to transmit the triplicate certificate of any marriage solemnized by him or them, to the local registrar of vital statistics three days after the date of such marriage, shall be fined the sum of not less than twenty nor more than two hundred dollars.

Section 2339n—19. Any county clerk who shall refuse or neglect to enter upon the marriage license docket a complete record of each application, and of each marriage license issued from his office, immediately after the same shall have been made or issued, as the case may be, or shall fail to keep such marriage license docket open for inspection or examination by the public during office hours, or shall prohibit or prevent any person from making a copy or abstract of the entries in the marriage license docket, shall for each such illegal act, omission or denial, be fined the sum of fifty dollars.

Section 2339n—20. Any fine or forfeiture accruing under the provisions of sections 2339n—1 to 2339n—27, inclusive, of the statutes may be recovered by an action of debt, in the same manner as other debts are recovered by law, with the usual costs, in any court of record in any county in this state in which the defendant or defendants may be found.

Section 2339n—21. All marriages hereafter contracted in violation of any of the requirements of section 2339n—1 shall be null and void, (except as provided in sections 2339n—22 and

2339n—23) ; provided, that the parties to any such void marriage may, at any time, validate such marriage by complying with the requirements of sections 2339n—1 to 2339n—27, inclusive.

Section 2339n—22. No marriage hereafter contracted shall be void by reason of want of authority or jurisdiction in the officiating person solemnizing such marriage, if the marriage is in other respects lawful, and is consummated with the full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

Section 2339n—23. No marriage hereafter contracted shall be void either by reason of the license having been issued without the consent of the parents, guardian or curator of a minor, or by a county clerk not having jurisdiction to issue the same, or by reason of any omission, informality or irregularity of form in the application for the license or in the license itself, or by reason of the incompetency of the witnesses to such marriage, or because the marriage may have been solemnized in a county other than the county prescribed in section 2339n—10, or more than thirty days after the date of the license, if the marriage is in other respects lawful and is consummated with the full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage. Where a marriage has been celebrated in one of the forms provided for in section 2339n—1, and the parties thereto have immediately thereafter assumed the habit and repute of husband and wife, and have continued the same uninterruptedly thereafter for the period of one year, or until the death of either of them, it shall be deemed that a license has been issued as required by sections 2339n—1 to 2339n—27, inclusive.

Section 2339n—24. If a person during the lifetime of a husband or wife with whom the marriage is in force, enters into a subsequent marriage contract in accordance with the provisions of section 2339n—1, and the parties thereto live together thereafter as husband and wife, and such subsequent marriage contract was entered into by one of the parties in good faith, in the full belief that the former husband or wife was dead, or that the former marriage had been annulled, or dissolved by a divorce, or without knowledge of such former marriage, they shall, after the impediment to their marriage has been removed by the death or divorce of the other party to such former marriage, if they continue to live together as husband and wife in good faith on the part of one of them, be held to have been legally married from and after the removal of such impediment, and the issue of such

subsequent marriage shall be considered as the legitimate issue of both parents.

Section 2339n—25. In any and every case where the father and mother of an illegitimate child or children shall lawfully intermarry, such child or children shall thereby become legitimated and enjoy all the rights and privileges of legitimacy as if they had been born during the wedlock of their parents; and this section shall be taken to apply to all cases prior to its date, as well as those subsequent thereto; provided, that no estate already vested shall be divested by section 2274 and sections 2339n—1 to 2339n—27, inclusive, of the statutes. The issue of all marriages declared null in law shall, nevertheless, be legitimate.

Section 2339n—26. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 2339n—27. Each county clerk shall receive as a fee for each license granted the sum of fifty cents, which shall become a part of the funds of the county.

SECTION 4. This act shall take effect upon the first day of January, 1918.

Approved May 14, 1917.

No. 488, S.]

[Published May 17, 1917.

CHAPTER 219

AN ACT to renumber section 490a to be subsection 1 of said section 490a and to create subsections 2, 3 and 4 of section 490a of the statutes, relating to the dissolution of free high schools.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 490a of the statutes is renumbered to be subsection 1 of said section 490a.

SECTION 2. Three new subsections are added to section 490a of the statutes to read: (Section 490a.) 2. The electors of any joint school district having within its boundaries a village free high school district who shall have heretofore voted, or shall hereafter vote, for the establishment and maintenance of a district free high school in such joint district, shall be deemed by such action to have dissolved the existing village high school district and to have authorized the surrender of its certificate of organization.

3. Upon the issuance of the certificate of organization of the joint free high school district by the state superintendent of public instruction the school board of the joint school district shall immediately assume full charge and authority and continue the