

Senate Bill 313

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CHAPTER 480

AN ACT to renumber 247.37 (1) (b); to amend 247.37 (3); to repeal and recreate 245.10 and to create 247.37 (1) (b) of the statutes, relating to the requirement of court permission for certain remarriages.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 245.10 of the statutes is repealed and recreated to read:

245.10 PERMISSION OF COURT REQUIRED FOR CERTAIN MARRIAGES. (1) No Wisconsin resident having minor issue of a prior marriage not in his custody and which he is under obligation to support by any court order or judgment, may marry in this state or elsewhere, without the order of either the court of this state which granted such judgment or support order, or the court having divorce jurisdiction in the county of this state where such minor issue resides or where the marriage license application is made. No marriage license shall be issued to any such person except upon court order. The court, within 5 days after such permission is sought in a special proceeding, shall direct a court hearing to be held in the matter to allow said person to submit proof of his compliance with such prior court obligation. No such order shall be granted, or hearing held, unless both parties to the intended marriage appear, and unless the person, agency, institution, welfare department or other entity having the legal or actual custody of such minor issue is given notice of such proceeding by personal service of a copy of the petition at least 5 days prior to the hearing, except that such appearance or notice may be waived by the court upon good cause shown, and unless a 5-day notice thereof is given to the family court commissioner of the county where such permission is sought, who shall attend such hearing, and to the family court commissioner of the court which granted such divorce judgment. Upon the hearing, if said person submits such proof and makes a showing that such children are not and are not likely to become public charges, the court shall grant such order, a copy of which shall be filed in any prior divorce action of such person in this state affected thereby; otherwise permission for a license shall be withheld until such proof is submitted and such showing is made, but any court order withholding such permission is an appealable order. No county clerk in this state shall issue such license to any person required to comply with this section unless a certified copy of a court order permitting such marriage is filed with said county clerk.

(2) No nonresident of this state, having minor issue of a prior marriage not in his custody and which he is under obligation to support by order or judgment of any court in this state or elsewhere, may marry in this state unless he has complied with the requirements of sub. (1).

(3) If a Wisconsin resident having such support obligations of a minor, as stated in sub. (1), wishes to marry in another state, he must, prior to such marriage, obtain permission of the court under sub. (1), except that in a hearing ordered or held by the court, the other party to the proposed marriage, if domiciled in another state, need not be present at the hearing. If such other party is not present at the hearing, the judge shall within 5 days send a copy of the order of permission to marry, stating the obligations of support, to such party not present.

(4) This section shall have extraterritorial effect outside the state; and s. 245.04 (1) and (2) are applicable hereto. Any marriage contracted

without compliance with this section, where such compliance is required, shall be void, whether entered into in this state or elsewhere.

SECTION 2. 247.37 (1) (b) of the statutes is renumbered 247.37 (1) (c).

SECTION 3. 247.37 (1) (b) of the statutes is created to read:

247.37 (1) (b) When a judgment of divorce is granted, the written judgment of divorce shall state, in a separate paragraph, that where either party to the marriage being so dissolved is obligated under such judgment or by other judgment or court order to support any minor issue of the marriage not in his custody, he is prohibited by s. 245.10 from marrying again in this state or elsewhere after such judgment becomes effective unless permission to marry is granted by order of either the court of this state which granted such judgment or support order, or the court having divorce jurisdiction in the county of this state where such minor issue resides or where the marriage license application is made.

SECTION 4. 247.37 (3) of the statutes is amended to read:

247.37 (3) ~~It is the duty of~~ Every judge, who grants a judgment of divorce, ~~to~~ shall inform the parties appearing in court that the judgment, so far as it affects the marital status of the parties except to bar cohabitation, will not become effective until one year from the date when such judgment is granted; *and where either party to the marriage being so dissolved is obligated under such judgment or by other judgment or court order to support any minor issue of the marriage not in his custody, the judge shall inform him that he is prohibited from marrying again in this state or elsewhere after such judgment becomes final unless permission to marry is granted by order of either the court of this state which granted such judgment or support order, or the court having divorce jurisdiction in the county of this state where such minor issue resides or where the marriage license application is made.*

Approved December 15, 1965.