

1969 Assembly Bill 146

Date published:
August 2, 1969**CHAPTER 116, LAWS OF 1969**

AN ACT to amend 245.10 (1) and (2); and to create 245.10 (3) of the statutes, relating to a requirement that a father under obligation to support his illegitimate child secure court permission to marry.

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

SECTION 1. 245.10 [(1) and (2)] of the statutes is [are] amended to read:

245.10 (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 by verified petition 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, *if the minor issue were of a prior marriage*, 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. *If the divorce judgment was granted in a foreign court, service shall be made on the clerk of that court.* Upon the hearing, if said person submits such proof and makes a showing that such children are not *then* and are not likely *thereafter* to become public charges, the court shall grant such order, a copy of which shall be filed in any prior *proceeding under s. 52.37* or 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).

SECTION 2. 245.10 (3) of the statutes is created to read:

245.10 (3) A hearing relating to court permission to marry for a father under obligation to support his illegitimate child may be waived by the court if the court is satisfied that all requirements of sub. (1) have been met by the petitioner.

Approved July 29, 1969.