

CHAPTER 235
FORMERLY
HOUSE BILL NO. 337

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO MARRIAGE OF MINORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 111, Title 13 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 111 Establishing validity of papers submitted by applicants; filing and inspection.

Clerks of the peace shall examine and satisfy themselves of the validity of papers submitted to them by divorced persons, past or present patients of ~~insane asylums~~ Delaware Psychiatric Center or other designated psychiatric treatment facilities as defined in §5001 of Title 16, and persons on probation or parole ~~and minors~~ and shall file such papers in the office of the 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.

Section 2. Amend § 123, Title 13 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 123 Marriage of minors; consent forms.

(a) No individual under the age of 18 shall be granted a marriage license ~~except under the provisions of subsection (b) of this section.~~

~~(b) If an applicant for a license to marry is under the age of 18 years, the license shall not be issued unless a Judge of the Family Court sitting in the county where the minor applicant resides signs an order allowing the applicant to marry in accordance with the procedure set forth in subsection (c) of this section. The Court shall make a decision on the petition in accordance with: the best interests of the minor seeking to be married; the wishes of the minor and such minor's parents or legal guardians; the mental and physical health of the individuals to be married; the criminal history of the individuals seeking to be married; whether the proposed marriage would violate any Delaware laws; and such other information which the Court deems appropriate.~~

~~(c) A parent, legal guardian or next friend on the minor's behalf shall petition the Family Court in the county where the minor applicant resides for an order allowing said applicant to marry.~~

~~(d) If the proposed marriage involves minors who reside in different counties within Delaware, the petition shall be filed in the county where the youngest minor resides.~~

(e), (f) [Repealed.]

Section 3. Amend § 1506, Title 13 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 1506 Annulment.

(a) The Court shall enter a decree of annulment of a marriage entered into under any of the following circumstances:

(1) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity, or because of the influence of alcohol, drugs or other incapacitating substances;

(2) A party lacked the physical capacity to consummate the marriage by sexual intercourse and the other party did not, at the time the marriage was solemnized, know of the incapacity;

(3) A party was less than legal age, if the marriage was not confirmed by such party after reaching legal age ~~and did not have the consent of his or her parents or guardian or judicial approval as provided by law;~~

(4) One party entered into the marriage in reliance upon a fraudulent act or representation of the other party, which fraudulent act or representation goes to the essence of the marriage;

(5) One or both parties entered into the marriage under duress exercised by the other party, or a third party, whether or not such other party knew of such exercise of duress;

(6) One or both parties entered into the marriage as a jest or dare; or

(7) The marriage is prohibited and void or voidable as provided in § 101 of this title.

Approved May 9, 2018