

Marriages, Births and Deaths.

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An act concerning marriages, births and deaths.

R. S. 376, 778.

Revision—Approved March 27, 1874.

P. L. 1848, p. 155.
 " 1851, p. 435.
 " 1856, p. 129.
 " 1862, p. 161.
 " 1863, p. 472.
 " 1866, p. 960.
 " 1872, p. 27.

I. Who may not marry.

1. That no man or woman shall intermarry within the degrees hereafter named, that is to say:

No man shall marry his

Grandmother,	Daughter's son's wife,
Grandfather's wife,	Mother,
Wife's grandmother,	Stepmother,
Father's sister,	Wife's mother,
Mother's sister,	Daughter,
Son's wife,	Wife's daughter,
Sister,	Wife's son's daughter,
Son's daughter,	Wife's daughter's daughter,
Daughter's daughter,	Brother's daughter,
Son's son's wife,	Sister's daughter.

Within what degrees marriages are prohibited.

R. S. 376, § 1.

No woman shall marry her

Grandfather,	Daughter's husband,
Grandmother's husband,	Brother,
Husband's grandfather,	Son's son,
Father's brother,	Daughter's son,
Mother's brother,	Son's daughter's husband,
Father,	Daughter's daughter's husband,
Stepfather,	Husband's son's son,
Husband's father,	Husband's daughter's son,
Son,	Brother's son,
Husband's son,	Sister's son.

II. Who may solemnize marriage.

2. Every justice of the peace and mayor of a city of this state, and every stated and ordained minister of the gospel, is hereby authorized to solemnize marriages between such persons as may lawfully enter into the matrimonial relation; and every religious society in this state may join together in marriage such persons as are of the said society, or when one

Who may solemnize marriages.
 Ib. § 2.

P. L. 1856, p. 129.
 " 1872, p. 27.

of such persons is of such society, according to the rules and customs of the society, to which they or either of them belong.(a)

III. Marriage of minors.

Males under twenty-one and females under eighteen not to be married without the consent of parents or guardians, certified under their hands.

P. L. 1866, p. 960, § 1.

Certificate to be filed.

Penalty for marrying minors without consent of parent or guardian.
Ib. § 2.

Certificate to be registered and filed.

R. S. 376, § 4.

Justices and ministers to record marriages, and make return of them to the clerk of the common pleas.
Ib. § 6.

3. No justice of the peace, minister of the gospel, or other person having or pretending to have authority to join persons together in the holy bands of matrimony, shall marry any male under the age of twenty-one years, or female under the age of eighteen years, unless the parent or parents, guardian or guardians, or person or persons under whose care and government such minor or minors shall be, be present, and give their consent thereto, or until the minor applying to be married, whether male or female, shall have produced a certificate in writing, under the hand of the parent or parents, guardian or guardians, or if such minor so applying to be married, have no parent or guardian, then under the hand of the person or persons under whose care and government he or she may at that time be; which certificate shall be proved to be genuine by the oath or affirmation of at least one person, of full age and discretion, who was present at the signing of the same, and affixed his or her name as a witness thereto; which oath or affirmation any justice of the peace, or minister of the gospel, authorized to solemnize marriages as aforesaid, is hereby authorized to take, and shall enter upon the back of the certificate; and should the person called upon to solemnize the marriage not be satisfied with the declarations of the parties desiring marriage, that they are of lawful age, he shall administer an oath or affirmation that they are of lawful age, of which oath or affirmation he shall make a certificate and file with the record of the marriage in the office of the clerk of the county, which certificate shall be his justification should said parties deceive him as to their age.

4. If any justice of the peace, minister of the gospel, or other person having or pretending to have authority to join persons together in the holy bands of matrimony, shall marry any minor or minors, without the consent of the parent or parents, guardian or guardians, or person or persons having the care and government of such minor or minor, had and obtained, according to the direction of this act, and contrary to the true intent and meaning thereof, every such justice of the peace, minister of the gospel, or other person having or pretending to have authority to join persons together in the holy bands of matrimony, shall, for every such offence, forfeit three hundred dollars, to be recovered in an action of debt or information, in any court of record of this state, by the parent, guardian or person having charge of such minor as shall be so joined in marriage as aforesaid, the one-half of the said forfeiture to be paid to the treasurer of the state, for the use of the state, and the other half to be for the use of the parent, guardian, or other person having charge of such minor, who shall prosecute the same to effect.(b)

5. Every justice of the peace, minister of the gospel, or other person, having or pretending to have authority to join persons in marriage, who shall marry any minor or minors by virtue of a certificate had and proved as above directed, shall register the same, or cause it to be registered in a book by him to be kept for the purpose of registering of marriages, and within three months after transmit the original certificate to the clerk of the county in which the marriage was solemnized, to be by him filed in his office.

IV. Records of marriages, births and deaths.

6. That every justice of the peace and minister of the gospel, or other person having authority to solemnize marriages, shall make and keep a particular record of all marriages solemnized before him, and transmit a certificate of every particular marriage (containing both christian names and surnames) within six months after the solemnization thereof, to the clerk of the court of common pleas for the county in which the marriage was solemnized.

(a) A justice may solemnize a marriage out of the county for which he is commissioned. *Pearson v. Howey*, 6 Hal. 12.
(b) The action must be brought within one year, *Boswell v. Robinson*, 4 Vr. 273. A master must aver that the minor had no parent or guardian living, *Castner v. Egbert*, 7 Hal.

259. The clergyman cannot give in evidence declarations of the father that he was satisfied, &c., *Wyckoff v. Boggs*, 2 Hal. 133. The clergyman cannot recover of the minor for deceiving him as to his age, *Harvey v. Bush*, Pen. *975.

7. The clerk or keeper of the minutes of every religious society in this state, before which any marriage shall be solemnized, shall make a true and faithful register of such marriage in the book by him kept; and it shall be the duty of such clerk or keeper of the minutes, to send to the clerk of the common pleas of the county a true copy of such register, in the manner and within the time specified in the next preceding section.

Clerk of religious society to register marriages and send copy to clerk of pleas.
Ib. § 9.
Amended.

8. If any justice of the peace, or minister of the gospel, or clerk or keeper of the minutes of a religious society, or other person, shall neglect, omit, or refuse to make return to the clerk of the county, as aforesaid, of all such marriages, he shall for every such offence forfeit the sum of fifty dollars, to be recovered with costs by the clerk of the said court of common pleas, or any other person who shall prosecute for the same, by action of debt or information in any court having cognizance thereof.

Penalty on justices and ministers who shall not make such return in due time.
Ib. § 7.

9. The respective clerks of the courts of common pleas in and for the several counties of this state shall register and record all such returns of marriages at large in a book to be kept for that purpose, and no other, within the space of one calendar month after receiving the same; for which service the said clerks respectively, shall be allowed and receive for each and every entry aforesaid, the sum of twelve cents, to be paid by the persons married, to such justice of the peace or minister who shall perform the ceremony, and by such justice or minister, with the certificate thereof, be transmitted to the clerk; and if any such clerk shall refuse, neglect or omit, to register and record within the said time, any such return so to him made, or any part thereof, he shall forfeit the sum of one hundred dollars, to be recovered with costs, by any person who shall prosecute for the same, by action of debt or information, in any court having cognizance thereof.

Clerk of common pleas to record such return in one month, upon the penalty of one hundred dollars.
Ib. § 8.

10. Such book of marriages so kept by the respective clerks of the courts of common pleas, and by the clerks of such religious societies as are authorized to solemnize marriages by this act, shall be admitted as evidence in all courts of law and equity in this state.

Books of marriages to be evidence.
Ib. § 10.

11. If any justice of the peace, or minister of the gospel, mayor, or clerk or keeper of the minutes of any religious society, shall wilfully and knowingly make a false return of such marriages, or any of them, to the said clerk of the court of common pleas, or if the said clerk of such court shall wilfully and knowingly make a false entry, register and record, of any return of marriages so to him made, in the said book by him before directed to be kept; or, if any clerk or keeper of the minutes and proceedings of such religious societies as are authorized to solemnize marriages by this act, shall wilfully and knowingly make a false entry, register and record, of such marriages, or any of them, then every such person so offending shall be adjudged guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment, or both, at the discretion of the court.

Penalty for false return or entry.
Ib. § 11.
Amended.

12. The secretary of state shall procure suitable books in which he shall cause to be entered an alphabetical index of all the returns made to his office by virtue of this act; he shall also prepare and furnish to the clerks in the several townships in this state, blank books of suitable quality and size, to be used, as books of record, according to the provisions of this act, and also blank forms of returns, as hereinafter specified, and shall accompany the same, with such instructions and explanations as may be necessary and useful; and the said secretary shall receive said returns, and prepare therefrom such tabular results as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the provisions of this act; and for his services under this act he shall be entitled to receive, annually, the sum of one hundred dollars, to be paid by the treasurer, on a warrant signed by the governor or person administering the government of this state.

Secretary of state to enter index of returns made to his office.

To prepare blank forms of returns.

Annual report to legislature.

Compensation.

13. The clerk of every township shall, in the book so provided for him by the secretary of state, keep a register of the marriages, births and deaths, which shall be reported to him in the manner hereinafter mentioned.

Register to be kept by clerk of township.
R. S. 778, § 1.
Amended.

14. The parent or parents of every child hereafter born, and the

Births and deaths may be registered.
Ib. § 2.

executors or administrators, or next of kin in this state, of every person who shall hereafter die, may, within three years after the birth of such child, or death of such person, apply to the clerk of the township, in which such birth or death shall have happened, to have the same registered according to the directions of this act; and on proof being made of such birth or death, within the said three years, in the manner hereinafter mentioned, the said clerk shall, and he is hereby required to enter in the said book the name of such child, the time and place of his or her birth, and the name of his or her parent or parents, and in case of death, the name of the person who shall have departed this life, and the time and place of such person's death.

Proof of birth, how to be made.
Ib. § 3.

15. The proof of a birth shall be by a certificate, which shall contain the name of the child, and of his or her parent or parents, and the time and place of his or her birth, the truth of which certificate shall be sworn or affirmed to by the parents of such child, or one of them, or by some person present at the birth.

Proof of death, how to be made.
Ib. § 4.

16. The proof of a death shall be by a certificate, which shall contain the name of the person deceased, and the time and place of his or her death; the truth of which certificate shall be sworn or affirmed to by a witness, who was present at the death of such person, or actually saw such person dead.

Before whom to be made.
Ib. § 5.

17. Every justice of the peace of the county, where such birth or death shall happen, is hereby authorized to administer the said oath or affirmation; and the said certificate, so sworn or affirmed to, shall be filed by the clerk of the township, whose fees shall be twelve cents for registering each birth or death, and six cents for filing each certificate.

Register to be evidence.
Ib. § 6.

18. The said books or registers of births and deaths, and other books heretofore kept for the same purposes agreeably to law, shall be admitted in evidence in every court of this state.

Penalty on clerk for not registering.
Ib. § 7.

19. If the said clerk shall not, within two weeks after such application and certificate to him made and produced as aforesaid, and the fees aforesaid tendered to him, enter or register in the form and book aforesaid any such birth or death, he shall forfeit four dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same.

Punishment for false swearing and false entry.
Ib. § 8.

20. If any person shall wilfully, knowingly, and falsely swear or affirm to any certificate of such birth or death, or if any clerk shall wilfully and knowingly make in the said book a false entry of such birth or death; then the said person or clerk so offending shall be adjudged to be guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, at the discretion of the court, the fine not to exceed eight hundred dollars, and the imprisonment not to exceed seven years.

Sexton to report deaths.

P. L. 1848, p. 155, § 12.
P. L. 1851, p. 435, § 1.

21. Each sexton or other person having the charge of any burial ground or cemetery in this state shall, on or before the tenth day of each month, make returns of all the facts required by the twenty-third section of this act, connected with the death of any person whose burial he may have superintended during the month next preceding, to the clerk of the township in which such deceased person resided at the time of his death, if such death happened in this state; and such sexton or other person shall be entitled to receive from the treasury of the township to which such return is made ten cents for the return of each death made, agreeably to the provisions of this act.

Assessor to return marriages, births and deaths.

P. L. 1862, p. 161, § 1.
P. L. 1863, p. 472, § 2.

22. The assessor of each township, or some person duly authorized by him, shall annually, before the first day of September, ascertain from actual inquiry or otherwise, all the marriages, births and deaths which have happened within such township during the year next succeeding the last official report on that subject for said township, together with the facts concerning said marriages, births and deaths, as are required by this act to be contained in the report of the clerks of the townships to the secretary of state, and shall make a record thereof, and file the same forthwith with the clerk of said township; and the said assessor shall, before the time above limited for making said return, make a personal demand on the several persons in his township authorized to solemnize marriages, and who have neglected to make the returns of marriages as

Further duty.

herein required, of the number of such marriages by them respectively solemnized during the previous year, together with the facts required to be stated as aforesaid, and any person refusing or neglecting to give a full and correct report thereof, as by this act is required, shall thereby forfeit the sum of twenty dollars, one-half to the said assessor, and one-half to the overseer of the poor of the said township, to be recovered by action of debt; the said assessor shall annex to his said record an affidavit that he has performed the duties required by this act, faithfully, to the best of his knowledge and ability; and upon receiving a certificate from the said clerk, that such return has been made to him within the time limited, together with a statement of the whole number of said marriages, births and deaths so returned, the said assessor shall be entitled to receive from the collector of the township ten cents for each marriage, birth and death by him so as aforesaid returned, the receipt for which shall be annexed to the said certificate, and no payment shall be made unless such certificate be produced.

23. The clerks of the several townships in this state shall enter in the books so as aforesaid, to be kept by them a register of marriages, births and deaths, in the manner following: the births shall be numbered and recorded in the order in which they are received by the clerk; the record of births shall state, in separate columns, the date of the birth, the place of birth, the name of the child (if it have any), the sex of the child, name and surname of one or both of the parents, occupation of the father, residence of the parents, and the time when the record was made; the marriages shall be numbered and recorded in the order in which they are received by the clerk; the record of marriages shall state in separate columns, the date of the marriage, the place of the marriage, the name, residence, and official station of the person by whom married, the names and surnames of the parties, the residence of each, the age of each, the condition of each (whether single or widowed), the occupation, names of the parents, and the time when the record was made; the deaths shall be numbered and recorded in the order in which they are received by the clerk; the record of deaths shall state, in separate columns, the date of the death, the name and surname of the deceased, the sex, condition (whether single or married), age, occupation, place of death, place of birth, names of the parents, disease or cause of death, and the time when the record was made; a copy of which record, for the year preceding, shall be sent by said clerk annually to the secretary of state, on or before the fifteenth day of September; and upon an acknowledgment from the secretary of state of a receipt of said copy, the clerk shall be entitled to receive the sum of five cents for each marriage, birth and death so returned by him; *provided*, that no payment be made for said services without the production of such receipt.

24. Every birth shall be reported to the clerk of the township by the physician or midwife in attendance; and in case there is no physician or midwife in attendance, then the parents are hereby required to make such report within one month.

25. Should the returns from any township not be received by the secretary of state, within ten days after the expiration of the time when the same are due, it shall be his duty to notify the clerk of the township of the omission, and require said return to be made.

26. Every assessor and clerk who shall fail to comply with the requirements of this act shall be liable to a penalty of twenty-five dollars, to be recovered by an action of debt in the name and for the use of the overseers of the poor of the township of which said assessor or clerk are officers, in any court of competent jurisdiction; and the said overseers are required to commence said suit upon receiving notice from the secretary of state that such record has not been received in his office within the time above limited.

27. All books and blanks necessary to carry out the provisions of this act shall be sent by the secretary of state to the clerk of each county, who shall distribute them to the several township clerks for the use of the said clerks and assessors; the expenses incurred by the said county clerks shall be paid by the board of chosen freeholders of their respective counties.

Fees.

How register to be kept by township clerks.

P. L. 1848, p. 155, § 1.

Amended.

Copy to be sent annually to secretary of state.

Fees.

Physician or midwife to report birth.

P. L. 1851, p. 435, § 2.

Secretary of state to notify clerks if negligent. Ib. § 3.

Penalty if assessor or clerks are in default.

P. L. 1862, p. 161, § 5.

Books and blanks to be furnished by secretary of state. Ib. § 3.

V. General provisions.

- Meaning of terms "clerk" and "assessor." 28. The clerk of the common council or board of aldermen of any incorporated city or borough in this state, when such city or borough shall extend to and include the limits of an entire township, shall perform the same duties, receive the same compensation and be liable to the same penalties as are by this act provided in respect to the clerks of the several townships in this state; and that in construing this act the word "clerk," meaning thereby the town clerk of any township in this state, shall be deemed and taken to include and mean the clerk of the common council or board of aldermen of any incorporated city or borough as aforesaid, and that the expression "assessor of the township" shall include and mean the assessor of any ward of any incorporated city, town or borough.
- Fees of clerk. 29. The clerk of each township shall be entitled to receive from the treasury of such township ten cents for the record of each marriage, birth and death.
- Fees of assessor. 30. The assessor, in addition to his other fees, shall be entitled to the sum of twenty-five cents for every demand he shall make as above directed on persons having neglected to make returns of marriages as aforesaid.

Supplement.

Approved March 17, 1876.

P. L. 1876, p. 158.

- Returns of births, deaths and marriages to be made to board of vital statistics. 31. Sec. 1. That in any county of this state in which there is now established by law a county board of health and vital statistics, the returns of births, deaths and marriages now required to be made by ministers of the gospel, physicians and other persons shall hereafter be made to said board of health and vital statistics only and in no other manner whatever; and it shall be the duty of the clerk of such board to make annual returns of such births, deaths and marriages to the secretary of state, for which the same fees shall be allowed and paid to the said clerk as are now allowed by law.

Married Women.

I. THE PROPERTY AND CONTRACTS OF A MARRIED WOMAN.

1. Woman married since July 4, 1852, to retain property owned by her at time of marriage.
2. Also property now owned by her.
3. Also property acquired during marriage.
4. To be entitled to her own earnings.
5. May bind herself by contract. Exception.
6. May execute conveyances for her land if husband lunatic, in prison or living separate.
7. May bind herself by covenants in conveyance.
8. May execute release without concurrence of husband.

II. MAY MAKE WILL.

9. Will of married woman.

III. MAY SUE AND BE SUED IN HER OWN NAME.

10. Husband not liable for debts of wife contracted before or after marriage.
11. Wife may sue without joining husband.
12. Effect of judgment against married woman.

IV. GENERAL PROVISIONS.

13. Ante-nuptial contracts.
14. Husband must join in conveyance of wife's land.
15. Wife's separate property not subject to husband, nor to his debts.
16. Married man living separate from his wife by virtue of decree may convey, &c., land.
17. Married woman living separate from husband may release or bar dower.
18. Married woman living separate from husband by virtue of decree, &c., may convey, etc., land.
19. Married woman may, with concurrence of husband, receipt for, assign and convey interest in her real or personal property.

V. INSURANCE FOR BENEFIT OF MARRIED WOMAN.

20. Married woman may cause life of husband to be insured for her sole use.
21. May be made payable to children on her death.
22. Married woman may transfer policy to her husband or other person with his assent.

P. L. 1852, p. 407.
 " 1857, p. 485.
 " 1864, p. 442.
 698.
 " 1868, p. 782.
 " 1873, p. 108.

An act to amend the law relating to the property of married women.

Revision—Approved March 27, 1874.

I. The property and contracts of a married woman.

Married woman to retain property owned by her at time of marriage.

P. L. 1852, p. 407,
 § 1.
 Amended.

1. That the real and personal property of any woman who has married since the fourth day of July, in the year of our Lord one thousand eight hundred and fifty-two, or who may hereafter marry, and which she owned,