

South Carolina Code of Laws Unannotated

Title 20 - Domestic Relations

CHAPTER 1

Marriage

ARTICLE 1

General Provisions

SECTION 20-1-10. Persons who may contract matrimony.

(A) All persons, except mentally incompetent persons and persons whose marriage is prohibited by this section, may lawfully contract matrimony.

(B) No man shall marry his mother, grandmother, daughter, granddaughter, stepmother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, mother's sister, or another man.

(C) No woman shall marry her father, grandfather, son, grandson, stepfather, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, mother's brother, or another woman.

HISTORY: 1962 Code Section 20-1; 1952 Code Section 20-1; 1942 Code Section 8556; 1932 Code Section 8556; Civ. C. '22 Section 5522; Civ. C. '12 Section 3743; Civ. C. '02 Section 2658; G. S. 2026; R. S. 2157; 1712 (2) 476; 1961 (52) 47; 1996 Act No. 327, Section 2, eff May 20, 1996.

Validity

For validity of this section, see *Obergefell v. Hodges*, 135 S.Ct. 2584 (U.S. 2015); *Condon v. Haley*, 21 F.Supp.3d 572 (D. S.C. 2014).

SECTION 20-1-15. Prohibition of same sex marriage.

A marriage between persons of the same sex is void ab initio and against the public policy of this State.

HISTORY: 1996 Act No. 327, Section 1, eff May 20, 1996.

Validity

For validity of this section, see *Obergefell v. Hodges*, 135 S.Ct. 2584 (U.S. 2015); *Condon v. Haley*, 21 F.Supp.3d 572 (D. S.C. 2014); *Bradacs v. Haley*, 58 F.Supp.3d 514 (D. S.C. 2014).

SECTION 20-1-20. Persons who may perform marriage ceremony.

Only ministers of the Gospel, Jewish rabbis, officers authorized to administer oaths in this State, and the chief or spiritual leader of a Native American Indian entity recognized by the South Carolina Commission for Minority Affairs pursuant to Section 1-31-40 are authorized to administer a marriage ceremony in this State.

HISTORY: 1962 Code Section 20-2; 1952 Code Section 20-2; 1942 Code Section 8565; 1932 Code Section 8565; Civ. C. '22 Section 5530; Civ. C. '12 Section 3751; 1911 (27) 131; 2008 Act No. 322, Section 1, eff June 16, 2008.

SECTION 20-1-30. Cohabitation prior to emancipation as marriage.

All persons in this State who, previous to their actual emancipation, had undertaken and agreed to occupy the relation to each other of husband and wife and were cohabiting as such or in any way recognizing the relation as still existing on March 12, 1872, whether the rites of marriage have been celebrated or not, shall be deemed husband and wife, and be entitled to all the rights and privileges and be subject to all the duties and obligations of that relation, in like manner as if they had been duly married according to law.

But the provisions of this section shall not be deemed to extend to persons who have agreed to live in concubinage after their emancipation.

HISTORY: 1962 Code Section 20-3; 1952 Code Section 20-3; 1942 Code Sections 8569, 8570; 1932 Code Sections 8569, 8570; Civ. C. '22 Sections 5534, 5535; Civ. C. '12 Sections 3755, 3756; Civ. C. '02 Sections 2662, 2663; G. S. 2030, 2031; R. S. 2161, 2162; 1872 (15) 183.

SECTION 20-1-40. Cohabitation prior to emancipation as marriage; children.

The children of such marriages shall be deemed legitimate and when the parties shall have ceased to cohabit, in consequence of the death of the woman or from any other cause, all the children of the woman, recognized by the man to be his, shall be deemed legitimate.

HISTORY: 1962 Code Section 20-4; 1952 Code Section 20-4; 1942 Code Section 8570; 1932 Code Section 8570; Civ. C. '22 Section 5535; Civ. C. '12 Section 3756; Civ. C. '02 Section 2663; G. S. 2031; R. S. 2162; 1872 (15) 183.

SECTION 20-1-50. Legitimacy of children of marriages contracted after absence of previous spouse.

The issue of all marriages contracted after the absence of a husband or wife for a period of five years, such husband or wife not being heard from or known to be living during that period of time, are legitimate and declared to be legal heirs of their parents.

HISTORY: 1962 Code Section 20-5; 1952 Code Section 20-5; 1942 Code Section 8913-1; 1934 (38) 1587; 1987 Act No. 171, Section 80, eff July 1, 1987.

SECTION 20-1-60. Marriage of parents legitimates illegitimate children.

If the parents of an illegitimate child subsequently marry, the child shall become legitimate as if born in lawful wedlock and, as to the child so legitimated, all limitations imposed by law upon the amount of property that may be given illegitimate children by deed, will, inheritance or otherwise shall be removed. The provisions of this section shall be retroactive to the extent that they shall apply in all cases in which prior to May 2, 1951, the parents of an illegitimate child shall have married and the father and such child shall have been living on said date.

HISTORY: 1962 Code Section 20-5.1; 1952 Code Section 20-5.1; 1951 (47) 265.

SECTION 20-1-70. Name of children legitimized after marriage of parents.

Any child legitimized under the provisions of Section 20-1-60 shall take the name of his father unless the child has been previously adopted as otherwise provided by law and unless his name has been changed in the decree of adoption, in which case he shall retain the name given him in the decree.

HISTORY: 1962 Code Section 20-5.2; 1952 Code Section 20-5.2; 1951 (47) 265.

SECTION 20-1-80. Bigamous marriage shall be void; exceptions.

All marriages contracted while either of the parties has a former wife or husband living shall be void. But this section shall not extend to a person whose husband or wife shall be absent for the space of five years, the one not knowing the other to be living during that time, not to any person who shall be divorced or whose first marriage shall be declared void by the sentence of a competent court.

HISTORY: 1962 Code Section 20-6; 1952 Code Section 20-6; 1942 Code Section 8568; 1932 Code Section 8568; Civ. C. '22 Section 5533; Civ. C. '12 Section 3754; Civ. C. '02 Section 2661; G. S. 2029; R. S. 2160; 1712 (2) 203; 1990 Act No. 521, Section 98, eff June 5, 1990.

SECTION 20-1-90. Legitimacy of children when either party to bigamous marriage marries in good faith.

When either of the contracting parties to a marriage that is void under the provisions of Section 20-1-80 entered into the marriage contract in good faith on or after April 13, 1951 and in ignorance of the incapacity of the other party, any children born of the marriage shall be deemed legitimate and have the same legal rights as a child born in lawful wedlock.

HISTORY: 1962 Code Section 20-6.1; 1952 Code Section 20-6.1; 1951 (47) 150; 1954 (48) 1770.

SECTION 20-1-100. Minimum age for valid marriage.

Any person under the age of sixteen is not capable of entering into a valid marriage, and all marriages hereinafter entered into by such persons are void ab initio. A common-law marriage hereinafter entered into by a person under the age of sixteen is void ab initio.

HISTORY: 1997 Act No. 95, Section 1, eff June 11, 1997; 2000 Act No. 397, Section 1, eff August 17, 2000.

ARTICLE 3

Marriage License

SECTION 20-1-210. License required for marriage.

It shall be unlawful for any persons to contract matrimony within this State without first procuring a license as is herein provided and it shall likewise be unlawful for anyone whomsoever to perform the marriage ceremony for any such persons unless such persons shall first have delivered to the party performing such marriage ceremony a license as is herein provided duly authorizing such persons to contract matrimony. Any officer or person performing the marriage ceremony without the production of such license shall, on conviction thereof, be punished by a fine of not more than one hundred dollars nor less than twenty-five dollars or by imprisonment for not more than thirty days nor less than ten days.

HISTORY: 1962 Code Section 20-21; 1952 Code Section 20-21; 1942 Code Section 8557; 1932 Code Section 8557; Civ. C. '22 Section 5523; Cr. C. '22 Section 379; Civ. C. '12 Section 3744; 1911 (27) 131; 1945 (44) 62.

SECTION 20-1-220. Written application required twenty-four hours prior to issuance of license.

No marriage license may be issued unless a written application has been filed with the probate judge, or in Darlington and Georgetown counties the clerk of court who issues the license, at least twenty-four hours before the issuance of the license. The application must be signed by both of the contracting parties and shall contain the same information as required for the issuing of the license including the social security numbers, or the alien identification numbers assigned to resident aliens who do not have social security numbers, of the contracting parties. The license issued, in addition to other things required, must show the hour and date of the filing of the application and the hour and date of the issuance of the license. The application must be kept by the probate judge or clerk of court as a permanent record in his office. A probate judge or clerk of court issuing a license contrary to the provisions, upon conviction, must be fined not more than one hundred dollars or not less than twenty-five dollars, or imprisoned for not more than thirty days or not less than ten days.

HISTORY: 1962 Code Section 20-22; 1952 Code Section 20-22; 1942 Code Sections 8557, 8558; 1932 Code Sections 8557, 8558; Civ. C. '22 Sections 5523, 5524; Cr. C. '22 Section 379; Civ. C. '12 Sections 3744, 3745; 1911 (27) 131; 1912 (27) 613; 1913 (28) 76; 1915 (29) 216, 220; 1916 (29) 751; 1917 (30) 113, 127, 129; 1918 (30) 698; 1919 (31) 67, 112, 211, 245; 1920 (31) 736, 738, 1065; 1921 (32) 107, 152; 1922 (32) 781, 790; 1928 (35) 1205; 1931 (37) 12, 29, 122; 1933 (38) 148; 1934 (38) 1425; 1939 (41) 173, 179; 1945 (44) 62; 1946 (44) 1444; 1947 (45) 109, 234; 1948 (45) 1612; 1972 (57) 3072; 1997 Act No. 71, Section 4, eff June 10, 1997; 1999 Act No. 100, Part II, Section 105, eff June 30, 1999.

SECTION 20-1-230. Issuance of license; premarital preparation course.

(A) The judge of probate or clerk of court with whom a marriage license application was filed shall issue a license upon:

(1) the filing of the application required under the provisions of Section 20-1-220;

(2) the lapse of at least twenty-four hours thereafter;

(3) the payment of the fee provided by law; and

(4) the filing of a statement, under oath or affirmation, to the effect that the persons seeking the contract of matrimony are legally entitled to marry, together with the full names of the persons, their ages, and places of residence.

(B) A man and a woman who successfully complete a qualifying premarital preparation course and who have a South Carolina marriage license which attests the completion of the course shall be entitled to receive a one-time fifty-dollar nonrefundable state income tax credit, as permitted in Section 12-6-3381. In order for the course to qualify pursuant to this section, the couple must:

(1) attend a course taught by a professional counselor who is licensed pursuant to Chapter 75 of Title 40 or by an active member of the clergy in the course of his or her service as clergy or his or her designee, including retired clergy, provided that the designee is trained and skilled in premarital preparation;

(2) attend a minimum of six hours of instruction;

(3) complete the course within twelve months prior to the application for a marriage license; and

(4) complete the course together rather than individually.

A couple who completes a premarital preparation course pursuant to this section must be issued a certification of completion at the conclusion of the course by their course provider. The certification must include the number of hours that the couple completed together and the credentials of the course provider. A couple must produce this certification when applying for the marriage license in order to receive the non-refundable state income tax credit. The judge of probate or clerk of court must certify on the marriage license that the couple met the statutory requirements to qualify for this income tax credit. The judge of probate court or clerk of court is not responsible to authenticate the information contained in the certification of completion unless the certification of completion is wholly fraudulent on its face.

(C) The discount authorized by this section must not be applied to the fee credited to the Domestic Violence Fund provided for in Section 20-1-75.

HISTORY: 1962 Code Section 20-23; 1952 Code Section 20-23; 1942 Code Section 8558; 1932 Code Section 8558; Civ. C. '22 Section 5524; Civ. C. '12 Section 3745; 1911 (27) 131; 1912 (27) 613; 1913 (28) 76; 1915 (29) 216, 220; 1916 (29) 751; 1917 (30) 113, 127, 129; 1918 (30) 698; 1919 (31) 67, 112, 211, 245; 1920 (31) 736, 738, 1065; 1921 (32) 107, 152; 1922 (32) 781, 790; 1928 (35) 1205; 1931 (37) 12, 29, 122; 1933 (38) 148; 1934 (38) 1425; 1939 (41) 173, 179; 1946 (44) 1444; 1947 (45) 109,

234; 1948 (45) 1612; 1994 Act No. 470, Section 5, eff 30 days after July 14, 1994; 2006 Act No. 291, Section 1, eff May 31, 2006.

SECTION 20-1-240. Information to be provided to applicants for marriage licenses.

All authorized offices, officials, or individuals empowered to issue a marriage license shall, at the time of application, provide to applicants for marriage licenses:

- (1) family planning information supplied to the issuing officials by the Department of Health and Environmental Control; and
- (2) the "South Carolina Family Respect" information pamphlet published and provided by the office of the Governor.

HISTORY: 1962 Code Section 20-23.5; 1973 (58) 792; 2001 Act No. 4, Section 1, eff November 30, 2000.

SECTION 20-1-250. Applicants under age of consent; consent of relative or guardian.

A marriage license must not be issued when either applicant is under the age of sixteen. When either applicant is between the ages of sixteen to eighteen and that applicant resides with father, mother, other relative, or guardian, the probate judge or other officer authorized to issue marriage licenses shall not issue a license for the marriage until furnished with a sworn affidavit signed by the father, mother, other relative, or guardian giving consent to the marriage.

HISTORY: 1962 Code Section 20-24; 1952 Code Section 20-24; 1942 Code Section 8558; 1932 Code Section 8558; Civ. C. '22 Section 5524; Civ. C. '12 Section 3745; 1911 (27) 131; 1912 (27) 613; 1913 (28) 76; 1915 (29) 216, 220; 1916 (29) 751; 1917 (30) 113, 127, 129; 1918 (30) 698; 1919 (31) 67, 112, 211, 245; 1920 (31) 736, 738, 1065; 1921 (32) 107, 152; 1922 (32) 781, 790; 1928 (35) 1205; 1931 (37) 12, 29, 122; 1933 (38) 148; 1934 (38) 1425; 1939 (41) 173, 179; 1946 (44) 1444; 1947 (45) 109, 234; 1948 (45) 1612; 1955 (49) 126; 1957 (50) 306; 2000 Act No. 397, Section 2, eff August 17, 2000.

SECTION 20-1-260. Proof of age required of minor applicant.

The probate judge or any other officer authorized by law to issue marriage licenses shall not issue any license to any applicant under the age of eighteen years until he has filed a birth certificate, or a hospital or baptismal certificate which has been issued and dated within one year after birth, or a certified copy thereof, showing that he is of lawful age, which shall be filed in the records of his office with the application for such license. Provided, when an original birth, baptismal or hospital certificate is presented a copy of it shall be made and the original returned to the applicant. If the applicant shall certify in writing to the probate judge or such officer that he, after diligent effort, is unable to obtain a birth certificate or a hospital or baptismal certificate, the applicant shall then be required to have his parents, legal guardian or person with whom he resides execute an affidavit before any person authorized by law to administer an oath and under seal, which affidavit shall contain such information as will establish the age of the applicant. Provided, further, that upon the request of the applicant, any original birth, baptismal or hospital certificate presently on file with the court may be copied and the original returned to the applicant.

Persons applying for marriage licenses in lieu of furnishing birth certificates or hospital or baptismal certificates may present the following: military service identification card; selective service identification card; passports and visas.

HISTORY: 1962 Code Section 20-24.1; 1957 (50) 306; 1958 (50) 1904; 1960 (51) 1943; 1976 Act No. 467; 1976 Act No. 695 Section 1; 1977 Act No. 180.

SECTION 20-1-270. Proof of age required of applicant over age eighteen and under age twenty-five.

All persons over eighteen years of age and under twenty-five years of age shall furnish documentary evidence to the probate judge or any other officer authorized under the law to issue marriage licenses which shall prove the age of the applicant to the satisfaction of such probate judge or other officer. The probate judge or other officer shall enter upon the record of the application a brief description of evidence submitted.

HISTORY: 1962 Code Section 20-24.2; 1957 (50) 306; 1976 Act No. 695 Section 1.

SECTION 20-1-280. Penalty for furnishing false affidavit.

Any person furnishing the probate judge or any other officer authorized under the law to issue marriage licenses with a false affidavit shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in the sum of one hundred dollars.

HISTORY: 1962 Code Section 20-24.3; 1957 (50) 306.

SECTION 20-1-290. Wilful failure of license-issuing officer to comply with Sections 20-1-250, 20-1-260 and 20-1-270 as cause for removal.

The wilful failure of any officer responsible for the issuance of marriage licenses to comply with the terms of Sections 20-1-250, 20-1-260 and 20-1-270 shall be grounds or cause for removal from office.

HISTORY: 1962 Code Section 20-24.4; 1957 (50) 306.

SECTION 20-1-300. Issuance of license to unmarried female and male under eighteen years of age when female is pregnant or has borne a child.

Notwithstanding the provisions of Sections 20-1-250 to 20-1-290, a marriage license may be issued to an unmarried female and male under the age of eighteen years who could otherwise enter into a marital contract, if such female be pregnant or has borne a child, under the following conditions:

- (a) the fact of pregnancy or birth is established by the report or certificate of at least one duly licensed physician;
- (b) she and the putative father agree to marry;
- (c) written consent to the marriage is given by one of the parents of the female, or by a person standing in loco parentis, such as her guardian or the person with whom she resides, or, in the event of no such qualified person, with the consent of the superintendent of the department of social services of the county in which either party resides;
- (d) without regard to the age of the female and male; and
- (e) without any requirement for any further consent to the marriage of the male.

HISTORY: 1962 Code Section 20-24.5; 1962 (52) 1704; 1972 (57) 2382.

SECTION 20-1-310. Form of license and certificate.

The form of license and certificate of marriage shall be prescribed and furnished by the State Registrar and shall contain information required by the standard certificate as recommended by the national agency in charge of vital statistics, all of which are declared necessary for registration, identification, legal, health and research purposes, with such additions as are necessary to meet requirements imposed by the State.

HISTORY: 1962 Code Section 20-25; 1952 Code Section 20-25; 1942 Code Section 8559; 1932 Code Section 8559; Civ. C. '22 Section 5525; Civ. C. '12 Section 3746; 1911 (27) 131; 1970 (56) 2558.

SECTION 20-1-320. Division of vital statistics shall distribute license forms.

The Division of Vital Statistics of the Department of Health and Environmental Control shall, for the purpose of uniformity, print and distribute necessary forms of marriage license and certificate to be used by all probate courts of this State in the issuance of marriage licenses.

HISTORY: 1962 Code Section 20-26; 1952 Code Section 20-26; 1950 (46) 2307.

SECTION 20-1-330. Issue of licenses in triplicate; disposition.

The officer issuing marriage license certificates shall issue them in triplicate, all of which shall be delivered to either of the contracting parties and the parties to whom they are delivered shall in turn deliver them to the minister or officer who performs the wedding ceremony. The minister or officer who performs the wedding ceremony shall fill them out as required by law and deliver one to the contracting parties, without additional charge, and the other two within fifteen days to the officer who issued the license certificates.

HISTORY: 1962 Code Section 20-27; 1952 Code Section 20-27; 1942 Code Section 8560; 1932 Code Section 8560; 1924 (33) 1135; 1950 (46) 2452.

SECTION 20-1-340. Record of license and certificate kept by probate judge or clerk of court.

The probate judge or clerk of court who issued any such license shall, upon the return of the two copies to him by the person who performs the wedding ceremony, record and index such certificate in a book kept for that purpose and send one copy to the Division of Vital Statistics of the Department of Health and Environmental Control within fifteen days after the marriage license is returned to his offices. The judge of probate shall issue a certified copy of any such license and certificate to any person and he may charge the sum of fifty cents for so doing unless otherwise prohibited by law.

HISTORY: 1962 Code Section 20-28; 1952 Code Section 20-28; 1942 Code Section 8561; 1932 Code Section 8561; Civ. C. '22 Section 5526; Civ. C. '12 Section 3747; 1911 (27) 131; 1945 (44) 25; 1950 (46) 2307; 1970 (56) 2558.

SECTION 20-1-350. Filing of license and certificate and issuance of certified copies by Department of Health and Environmental Control.

The Department of Health and Environmental Control shall properly file and index every marriage license and certificate and may provide a certified copy of any license and certificate upon application of proper parties except that upon request the Department of Social Services or its designee must be provided at no charge with a copy or certified copy of a license and certificate for the purpose of establishing paternity or establishing, modifying, or enforcing a child support obligation.

HISTORY: 1962 Code Section 20-29; 1952 Code Section 20-29; 1950 (46) 2307; 1979 Act No. 41 Section 1; 1997 Act No. 71, Section 5, eff June 10, 1997.

SECTION 20-1-360. Effect of article on marriage without license.

Nothing contained in this article shall render illegal any marriage contracted without the issuance of a license.

HISTORY: 1962 Code Section 20-31; 1952 Code Section 20-31; 1942 Code Section 8563; 1932 Code Section 8563; Civ. C. '22 Section 5528; Civ. C. '12 Section 3749; 1911 (27) 131.

SECTION 20-1-370. Disposition of license fee.

Of the fee of one dollar required under the provisions of Section 20-1-230 the probate judge shall retain twenty-five cents as his compensation and the remaining seventy-five cents shall be paid into the county treasury and go to the school fund of the county, except that:

(1) in Clarendon County the entire fee of one dollar shall be collected in advance and paid monthly by the officer collecting it to the county treasurer for credit to the ordinary funds of said county, in such manner as may be required by law;

(2) in Richland and Sumter Counties the entire fee of one dollar shall be paid to the county treasury;

(3) in Oconee County the probate judge shall retain the sum of fifty cents as his compensation and the remaining fifty cents shall be paid into the county treasury and credited to the general fund of the county;

(4) in the counties of Bamberg, Greenville, Lancaster and Lee the probate judge shall retain the sum of fifty cents as his compensation;

(5) in the counties of Allendale, Barnwell, Calhoun, Chester, Chesterfield, Dorchester, Fairfield, Florence, Greenwood, Hampton, McCormick and Marion the probate judge and in Darlington County the clerk of court shall retain the entire fee as his compensation; and

(6) in Marlboro County the license fee of one dollar shall be turned over monthly by the judge of probate to the county treasurer and go to the general fund of the county.

HISTORY: 1962 Code Section 20-32; 1952 Code Section 20-32; 1942 Code Section 8558; 1932 Code Section 8558; Civ. C. '22 Section 5524; Civ. C. '12 Section 3745; 1911 (27) 131; 1912 (27) 613; 1913 (28) 76; 1915 (29) 216, 220; 1916 (29) 751; 1917 (30) 113, 127, 129; 1918 (30) 698; 1919 (31) 67, 112, 211, 245; 1920 (31) 736, 738, 1065; 1921 (32) 107, 152; 1922 (32) 781, 790; 1928 (35) 1205; 1931 (37) 12, 29, 122; 1933 (38) 148; 1934 (38) 1425; 1939 (41) 173, 179; 1946 (44) 1444; 1947 (45) 109, 234; 1948 (45) 1612; 1953 (48) 294, 422; 1954 (48) 1747; 1955 (49) 235, 616; 1956 (49) 2107, 2355; 1957 (50) 631.

SECTION 20-1-375. Marriage license fee.

In addition to the marriage license fee authorized pursuant to Section 20-1-230, there is imposed an additional twenty dollar fee for each marriage license applied for. This additional fee must be remitted to the State Treasurer and credited to the Domestic Violence Fund established pursuant to Section 20-4-160.

HISTORY: 2001 Act No. 91, Section 2, eff August 22, 2001.

SECTION 20-1-380. Disposition of fines.

All fines imposed and recovered for any violation of this article shall be paid to the county treasurer and credited by him to the school fund of the county in which the violation occurs.

HISTORY: 1962 Code Section 20-33; 1952 Code Section 20-33; 1942 Code Section 8562; 1932 Code Section 8562; Civ. C. '22 Section 5527; Civ. C. '12 Section 3748; 1911 (27) 131.

ARTICLE 5

Proceedings to Determine Status of Marriage

SECTION 20-1-510. Jurisdiction to determine validity of marriage.

The court of common pleas shall have authority to hear and determine any issue affecting the validity of a contract of marriage.

HISTORY: 1962 Code Section 20-41; 1952 Code Section 20-41; 1942 Code Section 8567; 1932 Code Section 8567; Civ. C. '22 Section 5532; Civ. C. '12 Section 3753; Civ. C. '02 Section 2660; G. S. 2028; R. S. 2159; 1882 (17) 681.

SECTION 20-1-520. Affirmation of marriage if validity has been denied or doubted.

When the validity of a marriage shall be denied or doubted by either of the parties, the other may institute a suit for affirming the marriage and, upon due proof of the validity thereof, it shall be decreed to be valid and such decree shall be conclusive upon all persons concerned.

HISTORY: 1962 Code Section 20-42; 1952 Code Section 20-42; 1942 Code Section 8566; 1932 Code Section 8566; Civ. C. '22 Section 5531; Civ. C. '12 Section 3752; Civ. C. '02 Section 2659; G. S. 2027; R. S. 2158; 1872 (15) 30.

SECTION 20-1-530. Declaration of invalidity.

If any such contract has not been consummated by the cohabitation of the parties thereto the court may declare such contract void for want of consent of either of the contracting parties or for any other cause going to show that, at the time the supposed contract was made, it was not a contract.

HISTORY: 1962 Code Section 20-43; 1952 Code Section 20-43; 1942 Code Section 8567; 1932 Code Section 8567; Civ. C. '22 Section 5532; Civ. C. '12 Section 3753;

Civ. C. '02 Section 2660; G. S. 2028; R. S. 2159; 1882 (17) 681.

SECTION 20-1-540. Adjudication of presumed death.

When a person has been married in this State or was living with his or her spouse in this State after marriage and the one has left the other and has been absent from the other for seven years, without the latter knowing or hearing anything about such absent spouse, the abandoned spouse may by an action in the court of common pleas or other court of competent jurisdiction serve the absent spouse by publication in the manner provided in Sections 15-9-710 and 15-9-740 and bring the issue as to such facts before the court of common pleas or other court of competent jurisdiction. And when it shall be satisfactorily established to the presiding judge of such court or to a jury on an issue sent to the jury by the judge that such absent spouse has not been heard from for seven years the complaining spouse shall have an adjudication of the issue and such absent spouse shall be conclusively presumed dead in so far as any children or kindred resulting from any marriage of the abandoned spouse during such absence may be concerned, notwithstanding the fact that such absent spouse may later appear alive. The reappearance or return of the absent spouse shall not alter such adjudication or invalidate or upset any subsequent marriage entered into by the abandoned spouse.

HISTORY: 1962 Code Section 20-44; 1952 Code Section 20-44; 1942 Code Section 8568; 1932 Code Section 8568; Civ. C. '22 Section 5533; Civ. C. '12 Section 3754; Civ. C. '02 Section 2661; G. S. 2029; R. S. 2160; 1712 (2) 203; 1946 (44) 1486.

SECTION 20-1-550. Service on defendant in action to annul marriage.

When a marriage has been contracted or solemnized in this State and an action is brought under Sections 20-1-80, 20-1-510, and 20-1-530 seeking to annul it, the plaintiff shall serve his complaint on the defendant by publication as provided in Sections 15-9-710 and 15-9-740. The original summons must be filed in the office of the clerk of court of the county in which the action is pending.

Service by publication as provided in Sections 15-9-710 and 15-9-740 also is available to a plaintiff in an action for annulment whose marriage was contracted or solemnized outside of this State when the plaintiff was a resident of this State at the time of the marriage or has been a resident of this State for at least one year prior to the commencement of the action.

HISTORY: 1962 Code Section 20-45; 1952 Code Section 20-45; 1946 (44) 1564; 1960 (51) 1564; 1997 Act No. 152, Section 29, eff June 11, 1997.

SECTION 20-1-560. Service on persons in military or naval services overseas in action to annul marriage.

No action shall be brought under the provisions of Section 20-1-550 against a man or woman in the military or naval service who is beyond the seas, nor until after such man or woman in the military or naval service has returned from beyond the seas for a period of three months, unless such defendant consents to such proceeding.

HISTORY: 1962 Code Section 20-46; 1952 Code Section 20-46; 1946 (44) 1564.

SECTION 20-1-570. Establishment of official record of marriages.

An official record of any marriage contracted in this State prior to June 30, 1911 or of any marriage so contracted subsequent to said date when a certificate of the performance thereof has not been filed may be made and established in the manner hereinafter prescribed.

The official record of marriage may be established by filing with the official whose duty it is to record marriages in the county in which the marriage was contracted (a) an affidavit of one or more of the witnesses to the marriage, (b) an affidavit of two or more reputable persons who were informed of the marriage and have knowledge that the persons so claiming to be married have lived together as husband and wife or (c) a certificate from the person officiating at the marriage if he were a minister of the Gospel or person qualified by law to administer an oath.

No more than the sum of one dollar shall be charged by the recording official for the establishment of such record.

HISTORY: 1962 Code Section 20-47; 1952 Code Section 20-47; 1942 Code Section 8571-1; 1933 (38) 260; 1945 (44) 164.

SECTION 20-1-580. Effect of establishment of official record of marriage and record.

The record herein permitted, when so established, shall be accepted by all the courts in this State as conclusive evidence of the marriage and shall be of the same force and effect as the records now required by law. The judge of probate or other officer whose duty it is to record and file such records shall purchase, out of county funds in his hands or by requisition upon the proper county official, a suitable book for the proper recording of marriages proved as provided in Section 20-1-570.

HISTORY: 1962 Code Section 20-48; 1952 Code Section 20-48; 1942 Code Section 8571-1; 1933 (38) 260.

ARTICLE 7

South Carolina Family Respect Act

SECTION 20-1-700. Short title.

This act may be cited as the "South Carolina Family Respect Act".

HISTORY: 2001 Act No. 4, Section 2, eff November 30, 2000.

SECTION 20-1-710. Legislative purpose.

The General Assembly finds that the family is the fundamental building block of society. Within healthy families children are instilled with values essential to the vitality of our State. These values include personal responsibility, honesty, duty, commitment to others, a work ethic, respect for authority, and sound educational habits. Because the family plays such a crucial role in developing these and other civic virtues essential to self-government, parents have a duty to themselves, their children, and society at large to instill these virtues in their children. Therefore, as much as it is able, the State should promote strong families, for the family is the cradle of an ordered and vibrant republic. Self-government depends upon civic virtue, and civic virtue in turn depends upon healthy families. The purpose of this act is to emphasize the importance of families to the success and well-being of our State.

HISTORY: 2001 Act No. 4, Section 2, eff November 30, 2000.

SECTION 20-1-720. Publication and distribution of "South Carolina Family Respect" pamphlet.

(A) The office of the Governor shall publish an informational pamphlet entitled "South Carolina Family Respect" consistent with the intent and provisions of this act. The office of the Governor shall distribute the pamphlet to the agencies, offices, and entities listed in subsection (B). It is the duty of the government agencies, offices, and entities listed in subsection (B) to promote the ideals of this pamphlet and distribute it to their constituencies and clients.

(B) The informational pamphlet must be distributed to:

- (1) all probate judges and clerks of court who issue marriage licenses who shall give it to each couple at the time they apply for the license;
- (2) all family court judges who shall give it to all couples who file a petition for divorce or a petition for approval of a separation agreement;
- (3) the Department of Social Services who shall give it to each person who applies for welfare benefits;
- (4) the Department of Health and Environmental Control to be included and mailed out with each certified birth certificate issued, as provided in Section 44-63-80;
- (5) all public school districts in the State that teach sex education programs. All public school districts must include a discussion of the pamphlet in its sex and family education curriculum;

(6) all state and local agencies and institutions that provide health services including, but not limited to, family planning services and distribution of contraceptives, to be given to all pregnant minors, persons receiving birth control, and persons receiving information on family planning or sexually transmitted diseases;

(7) all local mental health centers to be distributed where appropriate in particular counseling situations;

(8) all county programs for adolescent pregnancy prevention initiatives, as provided in Section 44-122-40. Each initiative must include a discussion of the pamphlet with the adolescents it counsels;

(9) all public colleges, universities, and other institutions of higher learning to be distributed to all first year students during their orientation; and

(10) the pamphlet must be made available for voluntary distribution to:

(i) all clergy and counselors who provide marriage counseling;

(ii) all private high schools;

(iii) all private institutions of higher learning; and

(iv) the general public.

HISTORY: 2001 Act No. 4, Section 2, eff November 30, 2000.