



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5644

Introduced 2/9/2024, by Rep. Kelly M. Cassidy

#### SYNOPSIS AS INTRODUCED:

750 ILCS 5/203	from Ch. 40, par. 203
750 ILCS 5/301	from Ch. 40, par. 301
750 ILCS 5/302	from Ch. 40, par. 302
750 ILCS 5/208 rep.	

Amends the Illinois Marriage and Dissolution of Marriage Act. Requires proof that each party to the marriage has attained the age of 18 years in order to obtain a license to marry and a marriage certificate from the county clerk. Deletes language allowing proof that each party to the marriage will have attained the age of 18 years at the time the marriage license is effective or will have attained the age of 16 years and has either the consent to the marriage of both parents or his guardian or judicial approval. Makes corresponding changes. Repeals a provision regarding judicial approval of underage marriages. Effective immediately, except that specified provisions take effect 2 years after the amendatory Act becomes law.

LRB103 36964 JRC 67078 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Marriage and Dissolution of  
5 Marriage Act is amended by changing Section 203 as follows:

6 (750 ILCS 5/203) (from Ch. 40, par. 203)

7 Sec. 203. License to Marry. When a marriage application  
8 has been completed and signed by both parties to a prospective  
9 marriage and both parties have appeared before the county  
10 clerk and the marriage license fee has been paid, the county  
11 clerk shall issue a license to marry and a marriage  
12 certificate form upon being furnished:

13 (1) satisfactory proof that each party to the marriage  
14 ~~has will have~~ attained the age of 18 years ~~at the time the~~  
15 ~~marriage license is effective or will have attained the~~  
16 ~~age of 16 years and has either the consent to the marriage~~  
17 ~~of both parents or his guardian or judicial approval;~~  
18 ~~provided, if one parent cannot be located in order to~~  
19 ~~obtain such consent and diligent efforts have been made to~~  
20 ~~locate that parent by the consenting parent, then the~~  
21 ~~consent of one parent plus a signed affidavit by the~~  
22 ~~consenting parent which (i) names the absent parent and~~  
23 ~~states that he or she cannot be located, and (ii) states~~

1 ~~what diligent efforts have been made to locate the absent~~  
2 ~~parent, shall have the effect of both parents' consent for~~  
3 ~~purposes of this Section;~~

4 (2) satisfactory proof that the marriage is not  
5 prohibited; and

6 (3) an affidavit or record as prescribed in  
7 subparagraph (1) of Section 205 or a court order as  
8 prescribed in subparagraph (2) of Section 205, if  
9 applicable.

10 With each marriage license, the county clerk shall provide  
11 a pamphlet describing the causes and effects of fetal alcohol  
12 syndrome. At least annually, the county board shall submit to  
13 the Illinois Department of Public Health a report as to the  
14 county clerk's compliance with the requirement that the county  
15 clerk provide a pamphlet with each marriage license. All  
16 funding and production costs for the aforementioned  
17 educational pamphlets for distribution to each county clerk  
18 shall be provided by non-profit, non-sectarian statewide  
19 programs that provide education, advocacy, support, and  
20 prevention services pertaining to Fetal Alcohol Syndrome.

21 (Source: P.A. 96-1323, eff. 1-1-11.)

22 Section 10. The Illinois Marriage and Dissolution of  
23 Marriage Act is amended by changing Sections 301 and 302 as  
24 follows:

1 (750 ILCS 5/301) (from Ch. 40, par. 301)

2 Sec. 301. Declaration of Invalidity - Grounds.→ The court  
3 shall enter its judgment declaring the invalidity of a  
4 marriage (formerly known as annulment) entered into under the  
5 following circumstances:

6 (1) a party lacked capacity to consent to the marriage at  
7 the time the marriage was solemnized, either because of mental  
8 incapacity or infirmity or because of the influence of  
9 alcohol, drugs or other incapacitating substances, or a party  
10 was induced to enter into a marriage by force or duress or by  
11 fraud involving the essentials of marriage;

12 (2) a party lacks the physical capacity to consummate the  
13 marriage by sexual intercourse and at the time the marriage  
14 was solemnized the other party did not know of the incapacity;

15 (3) (blank) ~~a party was aged 16 or 17 years and did not~~  
16 ~~have the consent of his parents or guardian or judicial~~  
17 ~~approval; or~~

18 (4) the marriage is prohibited.

19 (Source: P.A. 80-923.)

20 (750 ILCS 5/302) (from Ch. 40, par. 302)

21 Sec. 302. Time of Commencement.→ (a) A declaration of  
22 invalidity under paragraph ~~paragraphs~~ (1) or (2) ~~through (3)~~  
23 of Section 301 may be sought by any of the following persons  
24 and must be commenced within the times specified:

25 (1) for any of the reasons set forth in paragraph (1) of

1 Section 301, by either party or by the legal representative of  
2 the party who lacked capacity to consent, no later than 90 days  
3 after the petitioner obtained knowledge of the described  
4 condition;

5 (2) for the reason set forth in paragraph (2) of Section  
6 301, by either party, no later than one year after the  
7 petitioner obtained knowledge of the described condition;

8 (3) (blank) ~~for the reason set forth in paragraph (3) of~~  
9 ~~Section 301, by the underaged party, his parent or guardian,~~  
10 ~~prior to the time the underaged party reaches the age at which~~  
11 ~~he could have married without needing to satisfy the omitted~~  
12 ~~requirement.~~

13 (b) In no event may a declaration of invalidity of  
14 marriage be sought after the death of either party to the  
15 marriage under paragraph ~~subsections~~ (1) or, (2) ~~and (3)~~ of  
16 Section 301.

17 (c) A declaration of invalidity for the reason set forth  
18 in paragraph (4) of Section 301 may be sought by either party,  
19 the legal spouse in case of a bigamous marriage, the State's  
20 Attorney or a child of either party, at any time not to exceed  
21 3 years following the death of the first party to die.

22 (Source: P.A. 80-923.)

23 (750 ILCS 5/208 rep.)

24 Section 15. The Illinois Marriage and Dissolution of  
25 Marriage Act is amended by repealing Section 208.

1           Section 99. Effective date. This Act takes effect upon  
2 becoming law, except that Section 10 takes effect 2 years  
3 after this Act becomes law.