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SECRETARY OF STATE

2 Martin Luther King Jr., Drive
802 West Tower
Atlanta, Georgia 30334

June 4, 2018

VIA CERTIFIED MAIL

Ms. Darell Ann R. Artates
Third Secretary and Vice Consul (Public Diplomacy)
Embassy of the Republic of the Philippines
Bataan Street Corner
1600 Massachusetts Ave. NW
Washington, D.C., USA

RE: Official Code of Georgia

Dear Ms. Artates,

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General Counsel
Georgia Secretary of State's Office

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Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 2.
DOMICILE

§ 19-2-3. Domicile of married person

The domicile of a married person shall not be presumed to be the domicile of that person's spouse.

History

Orig. Code 1863, § 1646; Code 1868, § 1691; Code 1873, § 1692; Code 1882, § 1692; Civil Code 1895, § 1826; Civil Code 1910, § 2183; Code 1933, § 79-403; Ga. L. 1982, p. 805, §§ 1, 2.

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O.C.G.A. TITLE 19 Chapter 3

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Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 3.
MARRIAGE GENERALLY

TITLE 19 Chapter 3 NOTE

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Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 3.
MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-1. Prerequisites to valid marriage

To constitute a valid marriage in this state there must be:

- (1) Parties able to contract;
- (2) An actual contract; and
- (3) Consummation according to law.

History

Orig. Code 1863, § 1653; Code 1868, § 1697; Code 1873, § 1698; Code 1882, § 1698; Civil Code 1895, § 2411; Civil Code 1910, § 2930; Code 1933, § 53-101.

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Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 3.
MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-1.1. Common-law marriage; effectiveness

No common-law marriage shall be entered into in this state on or after January 1, 1997. Otherwise valid common-law marriages entered into prior to January 1, 1997, shall not be affected by this Code section and shall continue to be recognized in this state.

History

Code 1981, § 19-3-1.1, enacted by Ga. L. 1996, p. 1414, § 1.

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OFFICIAL CODE OF GEORGIA ANNOTATED
TITLE 19. DOMESTIC RELATIONS
CHAPTER 3. MARRIAGE GENERALLY

ARTICLE 1. GENERAL PROVISIONS

§ 19-3-1.1. Common-law marriage; effectiveness

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Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 3.
MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-2. Who may contract marriage; parental consent

- (a) To be able to contract marriage, a person must:
- (1) Be of sound mind;
 - (2) Except as provided in subsection (b) of this Code section, be at least 18 years of age;
 - (3) Have no living spouse of a previous undissolved marriage. The dissolution of a previous marriage in divorce proceedings must be affirmatively established and will not be presumed. Nothing in this paragraph shall be construed to affect the legitimacy of children; and
 - (4) Not be related to the prospective spouse by blood or marriage within the prohibited degrees.
- (b) If either applicant for marriage is 16 or 17 years of age, parental consent as provided in Code Section 19-3-37 shall be required.

History

Orig. Code 1863, § 1654; Code 1868, § 1698; Code 1873, § 1699; Code 1882, § 1699; Civil Code 1895, § 2412; Civil Code 1910, § 2931; Code 1933, § 53-102; Ga. L. 1957, p. 83, § 1; Ga. L. 1962, p. 138, § 1; Ga. L. 1963, p. 485, § 1; Ga. L. 1965, p. 335, § 1; Ga. L. 1965, p. 500, § 1; Ga. L. 1976, p. 1719, § 1; Ga. L. 1979, p. 872, § 1; Ga. L. 1999, p. 81, § 19; Ga. L. 2006, p. 141, § 6A/HB 847.

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**Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 3.
MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS****§ 19-3-3. Degrees of relationship within which intermarriage prohibited; penalty; effect of prohibited marriage**

(a) Any person who marries a person to whom he knows he is related, either by blood or by marriage, as follows:

- (1) Father and daughter or stepdaughter;
- (2) Mother and son or stepson;
- (3) Brother and sister of the whole blood or the half blood;
- (4) Grandparent and grandchild;
- (5) Aunt and nephew; or
- (6) Uncle and niece

shall be punished by imprisonment for not less than one nor more than three years.

(b) Marriages declared to be unlawful under subsection (a) of this Code section shall be void from their inception.

History

Cobb's 1851 Digest, p. 814; Code 1863, §§ 1655, 4418; Code 1868, §§ 1699, 4459; Code 1873, §§ 1700, 4533; Code 1882, §§ 1700, 4533; Ga. L. 1886, p. 30, § 1; Civil Code 1895, § 2413; Penal Code 1895, § 380; Civil Code 1910, § 2932; Penal Code 1910, § 371; Ga. L. 1916, p. 1249, § 1; Code 1933, §§ 26-5702, 53-105; Code 1933, § 26-9905, enacted by Ga. L. 1968, p. 1249, § 1.

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Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 3.
MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-3.1. Marriages between persons of same sex prohibited; marriages not recognized

(a) It is declared to be the public policy of this state to recognize the union only of man and woman. Marriages between persons of the same sex are prohibited in this state.

(b) No marriage between persons of the same sex shall be recognized as entitled to the benefits of marriage. Any marriage entered into by persons of the same sex pursuant to a marriage license issued by another state or foreign jurisdiction or otherwise shall be void in this state. Any contractual rights granted by virtue of such license shall be unenforceable in the courts of this state and the courts of this state shall have no jurisdiction whatsoever under any circumstances to grant a divorce or separate maintenance with respect to such marriage or otherwise to consider or rule on any of the parties' respective rights arising as a result of or in connection with such marriage.

History

Code 1981, § 19-3-3.1, enacted by Ga. L. 1996, p. 1025, § 1.

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MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-4. Nature of consent required

To constitute an actual contract of marriage, the parties must consent thereto voluntarily without any fraud practiced upon either. Drunkenness at the time of marriage, brought about by art or contrivance to induce consent shall be held as fraud.

History

Orig. Code 1863, § 1656; Code 1868, § 1700; Code 1873, § 1701; Code 1882, § 1701; Civil Code 1895, § 2414; Civil Code 1910, § 2933; Code 1933, § 53-103.

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MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-5. What marriages void; legitimacy of issue; effect of later ratification

(a) Marriages of persons unable to contract, unwilling to contract, or fraudulently induced to contract shall be void. However, the issue of such a marriage born before the marriage is annulled and declared void by a competent court shall be legitimate.

(b) In the case of persons unwilling to contract or fraudulently induced to do so, a subsequent consent and ratification of the marriage, freely and voluntarily made, accompanied by cohabitation as husband and wife shall render the marriage valid. In the case of a marriage void on one of the grounds specified in paragraphs (1) through (3) of Code Section 19-3-2, after removal of the impediment to marriage, a subsequent free and voluntary consent and ratification of the marriage accompanied by cohabitation as husband and wife shall likewise render the marriage valid.

History

Orig. Code 1863, § 1657; Code 1868, § 1701; Code 1873, § 1702; Code 1882, § 1702; Civil Code 1895, § 2416; Civil Code 1910, § 2935; Code 1933, § 53-104.

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MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-6. Effect of restraints on marriage; when valid

Marriage is encouraged by the law. Every effort to restrain or discourage marriage by contract, condition, limitation, or otherwise shall be invalid and void, provided that prohibitions against marriage to a particular person or persons or before a certain reasonable age or other prudential provisions looking only to the interest of the person to be benefited and not in general restraint of marriage will be allowed and held valid.

History

Orig. Code 1863, § 1652; Code 1868, § 1696; Code 1873, § 1697; Code 1882, § 1697; Civil Code 1895, § 2410; Civil Code 1910, § 2929; Code 1933, § 53-107.

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MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-7. Contracts attempting to force marriage void

The policy of the law being opposed equally to restrictions on marriage and to marriages not the result of free choice, all contracts or bonds made to hinder or to force marriage are deemed fraudulent and void.

History

Orig. Code 1863, § 3113; Code 1868, § 3125; Code 1873, § 3182; Code 1882, § 3182; Civil Code 1895, § 2415; Civil Code 1910, § 2934; Code 1933, § 53-108.

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MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-8. Interspousal tort immunity continued

Interspousal tort immunity, as it existed immediately prior to July 1, 1983, shall continue to exist on and after July 1, 1983.

History

Orig. Code 1863, § 1700; Code 1868, § 1743; Code 1873, § 1753; Code 1882, § 1753; Civil Code 1895, § 2473; Civil Code 1910, § 2992; Code 1933, § 53-501; Ga. L. 1983, p. 1309, § 1; Ga. L. 1984, p. 22, § 19.

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MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-9. Each spouse's property separate

The separate property of each spouse shall remain the separate property of that spouse, except as provided in Chapters 5 and 6 of this title and except as otherwise provided by law.

History

Laws 1809, Cobb's 1851 Digest, p. 305; Code 1863, § 1701; Ga. L. 1866, p. 146, § 1; Code 1868, § 1744; Code 1873, § 1754; Code 1882, § 1754; Civil Code 1895, § 2474; Civil Code 1910, § 2993; Code 1933, § 53-502; Ga. L. 1979, p. 466, § 33.

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MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-10. Right of married persons to contract; presumptions

A married person may make contracts with other persons; but, when a transaction between a husband and wife is attacked for fraud by the creditors of either, the onus shall be on the husband and wife to show that the transaction was fair. If a husband or a wife has a separate estate and purchases property from persons other than his or her spouse, the onus shall be upon a creditor levying on such property as the property of the other spouse to show fraud or to show that the husband or wife did not have the means with which to purchase the property.

History

Civil Code 1895, § 2492; Civil Code 1910, § 3011; Code 1933, § 53-505; Ga. L. 1979, p. 466, § 35.

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MARRIAGE GENERALLY ARTICLE 1. GENERAL PROVISIONS

§ 19-3-11. Gift from spouse allowed, but not presumed

Repealed by Ga. L. 1981, p. 704, § 1, effective July 1, 1981.

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Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 3.
MARRIAGE GENERALLY ARTICLE 2. LICENSE AND CEREMONY

§ 19-3-30. Issuance, return, and recording of license

(a) Marriage licenses shall be issued only by the judge of the probate court or his clerk at the county courthouse between the hours of 8:00 A.M. and 6:00 P.M., Monday through Saturday.

(b)

(1) No marriage license shall be issued to persons of the same sex.

(2) If one of the persons to be married is a resident of this state, the license may be issued in any county of this state. If neither the male nor the female to be married is a resident of this state, the license shall be issued in the county in which the ceremony is to be performed.

(c) The license shall be directed to the Governor or any former Governor of this state, any judge, including judges of state and federal courts of record in this state, city recorder, magistrate, minister, or other person of any religious society or sect authorized by the rules of such society to perform the marriage ceremony; such license shall authorize the marriage of the persons therein named and require the Governor or any former Governor of this state, judge, city recorder, magistrate, minister, or other authorized person to return the license to the judge of the probate court with the certificate thereon as to the fact and date of marriage within 30 days after the date of the marriage. The license with the return thereon shall be recorded by the judge in a book kept by such judge for that purpose.

(d) The fact of issue of any unrecorded marriage license may be established by affidavit of either party to a ceremonial marriage, which affidavit shall set forth the date, the place, and the name and title of the official issuing the license.

(e) In the event that any marriage license is not returned for recording, as provided in subsection (c) of this Code section, either party to a ceremonial marriage may establish the marriage by submitting to the judge of the probate court the affidavits of two witnesses to the marriage ceremony setting forth the date, the place, and the name of the official or minister performing the ceremony. The judge shall thereupon reissue the marriage license and enter thereon the certificate of marriage and all dates and names in accordance with the evidence submitted and shall record and cross-index same in the proper chronological order in the book kept for that purpose.

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MARRIAGE GENERALLY ARTICLE 2. LICENSE AND CEREMONY

§ 19-3-30.1. Premarital education

(a) In applying for a marriage license, a man and woman who certify on the application for a marriage license that they have successfully completed a qualifying premarital education program shall not be charged a fee for a marriage license. The premarital education shall include at least six hours of instruction involving marital issues, which may include but not be limited to conflict management, communication skills, financial responsibilities, child and parenting responsibilities, and extended family roles. The premarital education shall be completed within 12 months prior to the application for a marriage license and the couple shall undergo the premarital education together. The premarital education shall be performed by:

- (1) A professional counselor, social worker, or marriage and family therapist who is licensed pursuant to Chapter 10A of Title 43;
- (2) A psychiatrist who is licensed as a physician pursuant to Chapter 34 of Title 43;
- (3) A psychologist who is licensed pursuant to Chapter 39 of Title 43; or
- (4) An active member of the clergy when in the course of his or her service as clergy or his or her designee, including retired clergy, provided that a designee is trained and skilled in premarital education.

(b) Each premarital education provider shall furnish each participant who completes the premarital education required by this Code section a certificate of completion.

History

Code 1981, § 19-3-30.1, enacted by Ga. L. 2005, p. 1485, § 2/HB 378.

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Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 3.
MARRIAGE GENERALLY ARTICLE 2. LICENSE AND CEREMONY

§ 19-3-31. Issuance of licenses at satellite courthouses in certain counties

Notwithstanding any other law, in all counties having a population in excess of 400,000 according to the United States decennial census of 1990 or any future such census or in counties where the county site is located in an unincorporated portion of the county, the judge of the probate court or his or her clerk shall be authorized to issue the marriage licenses provided for by Code Section 19-3-30 and to take and perform any and all other actions prescribed in Code Section 19-3-30 either at the courthouse located at the county site or at any permanent satellite courthouse within the county which has been established and constructed by the governing authority of the county and has been designated by the governing authority of the county as a courthouse annex or by similar designation has been established as an additional courthouse to the courthouse located at the county site.

History

Code 1933, § 53-201a, enacted by Ga. L. 1976, p. 684, § 1; Ga. L. 1981, p. 531, § 1; Ga. L. 1982, p. 3, § 19; Ga. L. 1995, p. 567, § 1; Ga. L. 1998, p. 1159, § 5.

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MARRIAGE GENERALLY ARTICLE 2. LICENSE AND CEREMONY

§ 19-3-32. Penalty for improper issuance of license

If any judge of the probate court or clerk issues a marriage license in violation of subsection (a) of Code Section 19-3-30, the judge or clerk, as the case may be, shall be guilty of a misdemeanor.

History

Ga. L. 1956, p. 43, § 2.

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MARRIAGE GENERALLY ARTICLE 2. LICENSE AND CEREMONY

§ 19-3-33. Application for marriage license; contents; supplement marriage report

(a) A marriage license shall be issued on written application therefor, made by the persons seeking the license, verified by oath of the applicants. The application shall state that there is no legal impediment to the marriage and shall give the full present name of the proposed husband and the full present name of the proposed wife with their dates of birth, their present addresses, and the names of the father and mother of each, if known. If the names of the father or mother of either are unknown, the application shall so state. The application shall state that the persons seeking the license have or have not completed premarital education pursuant to Code Section 19-3-30.1. If the application states that the applicants seeking issuance of the license have completed premarital education, then the applicants shall submit a signed and dated certificate of completion issued by the premarital education provider.

(b) An application supplement-marriage report shall be prepared in connection with each marriage license. Except for the information in paragraph (3) of this subsection, the application supplement-marriage report shall be completed as a part of each application for a marriage license. The application supplement-marriage report shall state, at a minimum, the following:

- (1) The full name, date of birth, and social security number for each applicant;
- (2) The number this marriage would be for each applicant; and
- (3) After the ceremonial marriage has been performed, the date of the marriage ceremony and the county where the marriage ceremony occurred.

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History

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Ga. L. 1927, p. 224, § 1A; Code 1933, § 53-202; Ga. L. 1958, p. 214, § 1; Ga. L. 1997, p. 1592, § 2; Ga. L. 2005, p. 1485, § 3/ HB 378.

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§ 19-3-33.1. Use of surname in application for marriage license

(a) The form for application for marriage licenses shall be designed and printed in such a manner that applicants therefor shall designate the surnames which will be used as their legal surnames after the marriage is consummated. The legal surnames shall be designated as provided in subsection (b) of this Code section.

(b) A spouse may use as a legal surname his or her:

- (1) Given surname or, in the event the given surname has been changed as provided in Chapter 12 of this title, the surname so changed;
- (2) Surname from a previous marriage;
- (3) Spouse's surname; or
- (4) Surname as provided in paragraph (1) or (2) of this subsection in conjunction with the surname of the other spouse.

History

Code 1933, § 53-202.1, enacted by Ga. L. 1982, p. 950, § 1; Code 1981, § 19-3-33.1, enacted by Ga. L. 1982, p. 950, § 2; Ga. L. 1996, p. 373, § 1.

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§ 19-3-34. Application to be filed; use as evidence; transmission to the state registrar

(a) Except as provided in subsection (b) of this Code section, the application for a marriage license shall be filed in the office of the judge of the probate court before a marriage license shall be issued and shall remain in the permanent files in the office of the judge. It may be used as evidence in any court of law under the rules of evidence made and provided in similar cases.

(b) The application supplement-marriage report form provided for in Code Section 19-3-33 shall be transmitted to the state registrar pursuant to Code Section 31-10-21. No original or duplicate application supplement-marriage report form need be retained by any official or employee of the probate court beyond the time required for transmission to the state registrar of vital records and confirmation of such transmission and receipt. While in the temporary custody of the probate court, application supplement-marriage report forms shall not be available for public inspection or copying or admissible in any court of law.

History

Ga. L. 1927, p. 224, § 1A; Code 1933, § 53-203; Ga. L. 1997, p. 1592, § 3.

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§ 19-3-35. Issuance of license to applicants otherwise eligible

When both applicants for a marriage license are eligible to receive that license pursuant to the other provisions of this chapter and that license is otherwise authorized to be issued pursuant to the other provisions of this chapter, that license may be issued immediately and without any waiting period.

History

Ga. L. 1927, p. 224, § 1A; Code 1933, § 53-202; Ga. L. 1958, p. 214, § 1; Ga. L. 1965, p. 335, § 3; Ga. L. 1972, p. 193, § 4; Ga. L. 1976, p. 1719, § 2; Ga. L. 1989, p. 605, § 1.

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§ 19-3-35.1. AIDS brochures; listing of HIV test sites; acknowledgment of receipt

(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.

(b) The Department of Public Health shall prepare a brochure describing AIDS, HIV, and the dangers, populations at risk, risk behaviors, and prevention measures relating thereto. That department shall also prepare a listing of sites at which confidential and anonymous HIV tests are provided without charge. That department shall further prepare a form for acknowledging that the brochures and listings have been received, as required by subsection (c) of this Code section. The brochures, listings, and forms prepared by the Department of Public Health (formerly known as the Department of Human Resources for these purposes) under this subsection shall be prepared and furnished to the office of each judge of the probate court no later than October 1, 1988.

(c) On and after October 1, 1988, each person who makes application for a marriage license shall receive from the office of the probate judge at the time of the application the AIDS brochure and listing of HIV test sites prepared and furnished pursuant to subsection (b) of this Code section. On and after October 1, 1988, no marriage license shall be issued unless both the proposed husband and the proposed wife sign a form acknowledging that both have received the brochure and listing.

History

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Code 1981, § 19-3-35.1, enacted by Ga. L. 1988, p. 1799, § 5; Ga. L. 2009, p. 1000, § 1; Ga. L. 2011, p. 705, § 6-3/HB 214.

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§ 19-3-36. Proof of age of applicants

The judge of the probate court to whom the application for a marriage license is made shall satisfy himself or herself that the provisions set forth in Code Section 19-3-2 regarding age limitations are met. If the judge does not know of his or her own knowledge the age of a party for whom a marriage license is sought, the judge shall require the applicant to furnish the court with documentary evidence of proof of age in the form of a birth certificate, driver's license, baptismal certificate, certificate of birth registration, selective service card, court record, passport, immigration papers, alien papers, citizenship papers, armed forces discharge papers, armed forces identification card, or hospital admission card containing the full name and date of birth. In the event an applicant does not possess any of the above but appears to the judge to be at least 25 years of age, the applicant, in lieu of furnishing the judge with one of the above, may give an affidavit to the judge stating the applicant's age. Applicants who have satisfactorily proved that they have reached the age of majority may be issued a marriage license immediately.

History

Orig. Code 1863, § 1661; Code 1868, § 1704; Code 1873, § 1705; Code 1882, § 1705; Civil Code 1895, § 2419; Civil Code 1910, § 2938; Ga. L. 1924, p. 53, § 2; Ga. L. 1927, p. 224, § 1; Code 1933, § 53-206; Ga. L. 1965, p. 335, § 6; Ga. L. 1972, p. 193, § 6; Ga. L. 1976, p. 1719, § 4; Ga. L. 1979, p. 872, § 2; Ga. L. 2006, p. 141, § 6B/HB 847

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§ 19-3-37. Parental consent to marriage of underage applicants; when necessary; how obtained

(a) Definitions. As used in this Code section, the term:

(1) "Guardian" shall be held to include the same relationships between spouses as the relationships described in paragraph (2) of this subsection between parents and means:

(A) Any person at least five years older than the applicant standing in loco parentis to the applicant for at least two years;

(B) Any person at least five years older than the applicant with whom the applicant has lived for at least two years and who has or would be allowed to claim the applicant as a dependent for the purposes of a federal dependent income tax deduction;

(C) Any relative by blood or marriage at least five years older than the applicant and with whom the applicant has lived at least two years, when the whereabouts of the applicant's parents are unknown or

(D) A court appointed guardian.

(2) "Parent" means:

(A) Both parents if the parents are living together;

(B) The individual who has sole custody if the parents are divorced, separated, or widowed; or

(C) Either parent if the parents are living together but one parent is unavailable because of illness or infirmity or because he is not within the boundaries of this state or because physical presence is impossible.

(b) When parental consent required; how obtained. In cases where the parties applying for a license are 16 or 17 years of age, their ages to be proved to the judge of the probate court as provided in Code Section 19-3-36, the parents or guardians of each underage applicant shall appear in person before the judge and consent to the proposed marriage, provided that if physical presence because of illness or infirmity is impossible, an affidavit by the incapacitated parent or guardian along with an affidavit signed by a licensed attending physician stating that the parent or guardian is physically incapable of being present shall suffice. The licensed attending physician shall include only

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§ 19-3-38. Notification of parents of underage applicants;
additional fee

Reserved. Repealed by Ga. L. 2006, p. 141, § 6D/HB 847, effective July 1, 2006.

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§ 19-3-39. Certification and recordation of marriage after publication of banns

If the Governor or any former Governor of this state, any judge, city recorder, magistrate, minister, or other authorized person joins in marriage persons whose banns have been published, the person shall certify the fact to the judge of the probate court of the county where the banns were published, who shall record the same in the same book in which marriage licenses are recorded.

History

Orig. Code 1863, § 1660; Code 1868, § 1703; Code 1873, § 1704; Code 1882, § 1704; Civil Code 1895, § 2418; Civil Code 1910, § 2937; Code 1933, § 53-209; Ga. L. 1983, p. 884, § 4-1; Ga. L. 2010, p. 394, § 2/SB 238.

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§ 19-3-40. Blood test for sickle cell disease; information to be provided

(a) As used in this Code section, the term "blood test for sickle cell disease" means a blood test for sickle cell anemia, sickle cell trait, and other detectable abnormal hemoglobin.

(b) The Department of Public Health shall prepare information for public dissemination on the department's website describing the importance of obtaining a blood test for sickle cell disease and explaining the causes and effects of such disease. Such information shall recommend that each applicant applying for a marriage license obtain a blood test for sickle cell disease prior to obtaining a marriage license. Such information may also be provided as a brochure or other document. The department shall make such information available in electronic format to the probate courts of this state which shall disseminate such information to all persons applying for marriage licenses.

History

Code 1981, § 19-3-40, enacted by Ga. L. 2009, p. 314, § 1/ HB 184; Ga. L. 2011, p. 705, § 6-3/ HB 214.

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§ 19-3-41. Marriage manual; preparation by Department of Public Health; distribution at issuance of license; rules and regulations

- (a) The Department of Public Health shall prepare a marriage manual for distribution by the judge of the probate court or his clerk to all applicants for a marriage license. The manual shall include, but shall not be limited to, material on family planning.
- (b) The manual provided for in subsection (a) of this Code section shall be issued by the judge of the probate court or his clerk to applicants for a marriage license at the same time the marriage license is issued.
- (c) The Department of Public Health shall promulgate rules and regulations to implement this Code section.
- (d) In order to be nonsectarian, the manual will include resource referral information for those who might have questions regarding religious beliefs in the areas covered by the marriage manual.

History

Code 1933, § 53-201.1, enacted by Ga. L. 1973, p. 879, § 1; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2011, p. 705, § 6-3/HB 214.

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§ 19-3-42. Effect on marriage of want of authority in person officiating

A marriage which is valid in other respects and supposed by the parties to be valid shall not be affected by want of authority in the minister, Governor or any former Governor of this state, judge, city recorder, magistrate, or other person to solemnize the same; nor shall such objection be heard from one party who has fraudulently induced the other to believe that the marriage was legal.

History

Orig. Code 1863, § 1667; Code 1868, § 1708; Code 1873, § 1709; Code 1882, § 1709; Civil Code 1895, § 2423; Civil Code 1910, § 2492; Code 1933, § 53-213; Ga. L. 1983, p. 884, § 4-1; Ga. L. 2010, p. 394, § 3/SB 238.

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§ 19-3-43. Marriage in another state; effect in this state

All marriages solemnized in another state by parties intending at the time to reside in this state shall have the same legal consequences and effect as if solemnized in this state. Parties residing in this state may not evade any of the laws of this state as to marriage by going into another state for the solemnization of the marriage ceremony.

History

Orig. Code 1863, § 1668; Code 1868, § 1709; Code 1873, § 1710; Code 1882, § 1710; Civil Code 1895, § 2424; Civil Code 1910, § 2943; Code 1933, § 53-214.

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§ 19-3-44. Return of license to parties

(a) The judge of the probate court of each county shall return to the parties to a marriage the license and the return thereon after the same have been recorded as provided by law. This subsection shall be applicable to all marriage licenses and the returns thereon recorded after March 25, 1958.

(b) Upon request of either of the parties, the judge of the probate court of each county is authorized, as to marriage licenses with the returns thereon recorded prior to March 25, 1958, to return the license:

- (1) To the parties to the marriage if the marriage is not dissolved and the parties are not living in a state of separation;
- (2) To the surviving party to the marriage if one of the parties is deceased; or
- (3) To the party first requesting the license if the parties are divorced.

History

Ga. L. 1958, p. 331, §§ 1, 2.

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§ 19-3-45. Forfeiture for improper issuance of marriage license; by whom and when action brought; attorney's fee and court costs; disposition of balance of recovery

Any judge of the probate court who by himself or his clerk knowingly grants a license without the required consent or without proper precaution in inquiring into the question of minority shall forfeit the sum of \$500.00 for every such act, to be recovered at the action of the father or mother, if living, and, if not, at the action of the guardian or legal representative of either of such contracting parties, provided that under no circumstances shall more than one action be maintained by the father or mother, guardian, or legal representative of either of such contracting parties in connection with any one marriage; and provided, further, that no such action shall be brought prior to the expiration of 60 days from the date that the marriage becomes public and that no action under this Code section shall be maintained after the expiration of 12 months from the date the marriage becomes public. A recovery shall be had against the offending judge and his bondsmen. From the recovery a reasonable attorney's fee, to be fixed by the presiding judge trying the case, shall be paid to the attorney representing the person bringing the action and, after the payment of court costs, one-third of the remainder of the recovery shall be paid to the person bringing the action; and the remaining two-thirds shall be paid to the county educational fund of the county of the judge's residence. A judge who in good faith destroys physician's certificates of pregnancy and all records of the certificates under his control in accordance with the provisions of law shall not be prosecuted under this Code section for failure to require such a certificate from the applicants for a marriage license, if a birth certificate is issued for a child born to the applicants within the period of gestation of the marriage license was issued.

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§ 19-3-46. Forfeiture for officiating at marriage without license or banns

The Governor or any former Governor of this state, any judge, city recorder, magistrate, minister, or other person authorized to perform the marriage ceremony who joins in marriage any couple without a license or the publication of banns shall forfeit the sum of \$500.00, to be recovered and appropriated as set forth in Code Section 19-3-45.

History

Orig. Code 1863, § 1662; Code 1868, § 1705; Code 1873, § 1706; Code 1882, § 1706; Civil Code 1895, § 2420; Civil Code 1910, § 2939; Code 1933, § 53-210; Ga. L. 1983, p. 884, § 4-1; Ga. L. 2010, p. 394, § 4/SB 238.

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§ 19-3-47. Penalty for filing false information relative to application for license

Any person who willfully furnishes false information in connection with the application and issuance of any marriage license, either in the application for the license, in furnishing proof of age, or in the physician's certificate as to pregnancy, shall be guilty of a misdemeanor.

History

Code 1933, § 53-9912, enacted by Ga. L. 1965, p. 335, § 9.

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MARRIAGE GENERALLY ARTICLE 2. LICENSE AND CEREMONY

§ 19-3-48. Penalty for officiating at illegal marriage ceremony

If the Governor or any former Governor of this state, any judge, city recorder, magistrate, minister, or other person authorized to perform the marriage ceremony joins together in matrimony any man and woman without a license or the publication of banns or if the person performing the marriage ceremony knows of any disability of either of the parties which would render a contract of marriage improper and illegal, that person shall be guilty of a misdemeanor.

History

Cobb's 1851 Digest, pp. 818, 819; Code 1863, § 4441; Code 1868, § 4482; Code 1873, § 4566; Code 1882, § 4566; Penal Code 1895, § 637; Penal Code 1910, § 677; Code 1933, § 53-9901; Ga. L. 1982, p. 3, § 19; Ga. L. 1983, p. 884, § 4-1; Ga. L. 2010, p. 394, § 5/SB 238.

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MARRIAGE GENERALLY ARTICLE 2. LICENSE AND CEREMONY

§ 19-3-49. Acceptance by judges of tips, consideration, or gratuities

In addition to any compensation otherwise provided by law, any judge who performs a marriage ceremony at any time, except normal office hours, may receive and retain as personal income any tip, consideration, or gratuity voluntarily given to such judge for performing such marriage ceremony.

History

Code 1981, § 19-3-49, enacted by Ga. L. 1992, p. 1488, § 1.

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§ 19-3-60. Marriage as valuable consideration

Marriage is a valuable consideration; and a spouse stands, as to property of the other spouse settled upon a spouse by marriage contract, as do other purchasers for value, provided that by the contract a spouse shall not incapacitate himself from paying his existing just debts.

History

Orig. Code 1863, § 1731; Code 1868, § 1772; Code 1873, § 1782; Code 1882, § 1782; Civil Code 1895, § 2487; Civil Code 1910, § 3006; Code 1933, § 53-403.

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§ 19-3-61. Effect of minority of party

The minority of either party to marriage articles, as defined in subsection (a) of Code Section 19-3-62, or to a marriage contract shall not invalidate it, so long as the party is of lawful age to contract marriage.

History

Orig. Code 1863, § 1734; Code 1868, § 1775; Code 1873, § 1784; Code 1882, § 1784; Civil Code 1895, § 2489; Civil Code 1910, § 3008; Code 1933, § 53-402.

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Official Code of Georgia Annotated TITLE 19. DOMESTIC RELATIONS CHAPTER 3.
MARRIAGE GENERALLY ARTICLE 3. MARRIAGE ARTICLES, CONTRACTS, AND
SETTLEMENTS

§ 19-3-62. "Marriage articles" defined; enforceable in equity; executed contracts distinguished

- (a) As used in this article, the term "marriage articles" means any antenuptial agreement between the parties to a marriage contemplating a future settlement upon one spouse. Marriage articles, whether by parol or in writing, may be executed and enforced by a court of equity at the instance of the spouse at any time during the life of the other spouse, so long as the rights of third persons, purchasers, or creditors, in good faith and without notice, are not affected thereby.
- (b) An agreement perfect in itself which needs no future conveyance to effect its purposes is an executed contract and does not come under the definition of marriage articles.

History

Orig. Code 1863, § 1724; Code 1868, § 1765; Code 1873, § 1775; Code 1882, § 1775; Civil Code 1895, § 2480; Civil Code 1910, § 2999; Code 1933, § 53-401.

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§ 19-3-63. Construction of marriage contract; attestation

Every marriage contract in writing, made in contemplation of marriage, shall be liberally construed to carry into effect the intention of the parties and no want of form or technical expression shall invalidate the same. The contract must be attested by at least two witnesses.

History

Orig. Code 1863, § 1726; Code 1868, § 1767; Code 1873, § 1777; Code 1882, § 1777; Civil Code 1895, § 2482; Civil Code 1910, § 3001; Code 1933, § 53-407.

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MARRIAGE GENERALLY ARTICLE 3. MARRIAGE ARTICLES, CONTRACTS, AND
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§ 19-3-64. Voluntary execution of antenuptial agreement; conveyance of property during marriage

A spouse may voluntarily execute an agreement described in Code Section 19-3-62 or he may at any time during the marriage, either indirectly through trustees or directly to his spouse, convey any property to which he has title, subject to the rights of prior purchasers or creditors without notice.

History

Orig. Code 1863, § 1725; Code 1868, § 1766; Code 1873, § 1776; Code 1882, § 1776; Civil Code 1895, § 2481; Civil Code 1910, § 3000; Code 1933, § 53-404.

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§ 19-3-65. Powers of superior court judge in appointing and removing trustees and protecting trust estate; recordation of proceedings

The judge of the superior court of the county of a spouse's domicile may at any time, upon petition, exercise equitable powers in appointing, removing, or substituting trustees or in granting any order for the protection of the trust estate, exercising a wise discretion as to the terms on which the appointment shall be made or on which the order shall be granted. The proceeding in each case shall be transmitted to the clerk of the superior court, to be recorded in the book of the minutes of the court.

History

Orig. Code 1863, § 1729; Code 1868, § 1770; Code 1873, § 1780; Code 1882, § 1780; Civil Code 1895, § 2485; Civil Code 1910, § 3004; Code 1933, § 53-405.

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§ 19-3-66. In whose favor marriage contracts, postnuptial settlements, and marriage articles enforced

Marriage contracts and postnuptial settlements shall be enforced at the instance of all persons in whose favor there are limitations of the estate. Marriage articles, as defined in subsection (a) of Code Section 19-3-62, shall be executed only at the instance of the parties to the contract and the offspring of the marriage and their heirs; but, when executed at their instance, the court may execute also in favor of other persons and volunteers.

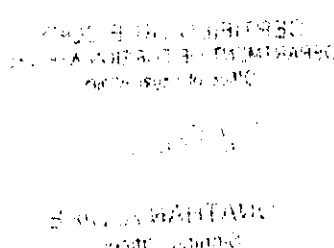
History

Orig. Code 1863, § 1730; Code 1868, § 1771; Code 1873, § 1781; Code 1882, § 1781; Civil Code 1895, § 2486; Civil Code 1910, § 3005; Code 1933, § 53-406.

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§ 19-3-67. Recordation of marriage contracts and voluntary settlements; effect of failure to record

(a) Every marriage contract and every voluntary settlement made by one spouse with the other, whether or not in execution of marriage articles, shall be recorded in the office of the clerk of the superior court of the county of the residence of the spouse making the settlement within three months after the execution thereof. If such a contract or settlement is made in another state and the parties subsequently move into this state, the same shall be recorded within three months from the move. If the settled property is in this state and the parties reside in another state, the record shall be made in the county where the property is located within the time specified above.

(b) A contract or settlement which is not recorded as provided in subsection (a) of this Code section shall be of no force or effect against one who, bona fide and without notice, becomes a purchaser, creditor, or surety before the actual recording of the same.

History

Laws 1847, Cobb's 1851 Digest, p. 180; Code 1863, § 1727; Code 1868, § 1768; Code 1873, § 1778; Code 1882, § 1778; Civil Code 1895, § 2483; Civil Code 1910, § 3002; Code 1933, § 53-408.

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§ 19-3-68. Application for order compelling recordation; effect of application; liability of trustee refusing to record

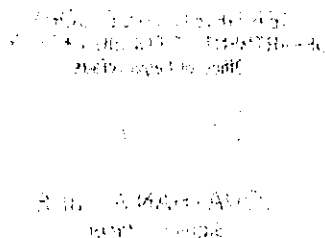
(a) If the trustee or the spouse having possession of a marriage contract or settlement fails or refuses to have the same recorded, the other spouse or any person acting on behalf of the spouse may apply to the judge of the superior court at any time for an order compelling its recordation. The application of the spouse or other person, when entered on the minutes of the superior court, shall be a notice equivalent to the record of the marriage contract or trust deed.

(b) A trustee refusing after demand to record a marriage contract or settlement shall be personally liable to his beneficiary for all damages sustained by reason of his failure to record.

History

Orig. Code 1863, § 1728; Code 1868, § 1769; Code 1873, § 1779; Code 1882, § 1779; Civil Code 1895, § 2484; Civil Code 1910, § 3003; Code 1933, § 53-409.

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Official Code of Georgia Annotated TITLE 19, DOMESTIC RELATIONS CHAPTER 4,
ANNULMENT OF MARRIAGE

§ 19-4-1. When annulments may be granted

Annulments of marriages declared void by law may be granted by the superior court, except that annulments may not be granted in instances where children are born or are to be born as a result of the marriage.

History

Ga. L. 1952, p. 149, § 1.

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ANNULMENT OF MARRIAGE

§ 19-4-2. Right to file for annulment or divorce

Parties who enter into a marriage which is declared void by law shall have the right to file:

- (1) A petition for annulment; or
- (2) A petition for divorce, if grounds for divorce exist.

History

Ga. L. 1952, p. 149, § 2.

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§ 19-4-3. Petition by next friend

A petition for annulment may be filed by next friend for minors or persons of unsound mind.

History

Ga. L. 1952, p. 149, § 3.

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§ 19-4-4. Procedure

All matters of service, jurisdiction, procedure, residence, pleading, and practice for obtaining an annulment of marriage shall be the same as those provided by law for obtaining a divorce, with the exception that a decree of annulment may be ordered at any time, in open court or in chambers, when personal service is had at least 30 days beforehand and no contest or answer is filed.

History

Ga. L. 1952, p. 149, § 4.

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§ 19-4-5. Effect of annulment

A decree of annulment, when rendered, shall have the effect of a total divorce between the parties of a void marriage and shall return the parties thereto to their original status before marriage. However, a decree of annulment shall not operate to relieve the parties to a marriage of criminal charges or responsibilities occasioned by the marriage.

History

Ga. L. 1952, p. 149, § 5.

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DIVORCE

§ 19-5-1. Total divorces authorized; how tried; referral for alternative dispute resolution

(a) Total divorces may be granted in proper cases by the superior court. Unless an issuable defense is filed as provided by law and a jury trial is demanded in writing by either party on or before the call of the case for trial, in all petitions for divorce and permanent alimony the judge shall hear and determine all issues of law and of fact and any other issues raised in the pleadings.

(b) In any county in which there has been established an alternative dispute resolution program pursuant to Chapter 23 of Title 15, known as the "Georgia Court-annexed Alternative Dispute Resolution Act," the judge may, prior to trial, refer all contested petitions for divorce or permanent alimony to the appropriate alternative dispute resolution method. In counties in which an alternative dispute resolution program has not been established, a judge may nonetheless refer any disputed divorce case to an appropriate alternative dispute resolution method if a method is reasonably available without additional cost to the parties.

History

Orig. Code 1863, § 1669; Ga. L. 1866, p. 21, § 1; Code 1868, § 1710; Code 1873, § 1711; Ga. L. 1880-81, p. 65, § 2; Code 1882, § 1711; Civil Code 1895, § 2425; Civil Code 1910, § 2944; Code 1933, § 30-101; Ga. L. 1946, p. 90, § 1; Ga. L. 1956, p. 405, § 1; Ga. L. 1960, p. 1023, § 1; Ga. L. 1995, p. 1292, § 13; Ga. L. 2007, p. 554, § 7/ HB 369; Ga. L. 2016, p. 864, § 19/ HB 737.

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DIVORCE

§ 19-5-2. Residence requirements; venue

No court shall grant a divorce to any person who has not been a bona fide resident of this state for six months before the filing of the petition for divorce, provided that any person who has been a resident of any United States army post or military reservation within this state for one year next preceding the filing of the petition may bring an action for divorce in any county adjacent to the United States army post or military reservation; and provided, further, that a nonresident of this state may file a petition for divorce, in the county of residence of the respondent, against any person who has been a resident of this state and of the county in which the action is brought for a period of six months prior to the filing of the petition.

History

Ga. L. 1890-91, p. 235, § 1; Ga. L. 1893, p. 109, § 1; Civil Code 1895, § 2431; Civil Code 1910, § 2950; Code 1933, § 30-107; Ga. L. 1939, p. 203, § 1; Ga. L. 1950, p. 429, § 1; Ga. L. 1958, p. 385, § 1.

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DIVORCE

§ 19-5-3. Grounds for total divorce

The following grounds shall be sufficient to authorize the granting of a total divorce:

- (1) Intermarriage by persons within the prohibited degrees of consanguinity or affinity;
- (2) Mental incapacity at the time of the marriage;
- (3) Impotency at the time of the marriage;
- (4) Force, menace, duress, or fraud in obtaining the marriage;
- (5) Pregnancy of the wife by a man other than the husband, at the time of the marriage, unknown to the husband;
- (6) Adultery in either of the parties after marriage;
- (7) Willful and continued desertion by either of the parties for the term of one year;
- (8) The conviction of either party for an offense involving moral turpitude, under which he is sentenced to imprisonment in a penal institution for a term of two years or longer;
- (9) Habitual intoxication;
- (10) Cruel treatment, which shall consist of the willful infliction of pain, bodily or mental, upon the complaining party, such as reasonably justifies apprehension of danger to life, limb, or health;
- (11) Incurable mental illness. No divorce shall be granted upon this ground unless the mentally ill party has been adjudged mentally ill by a court of competent jurisdiction or has been certified to be mentally ill by two physicians who have personally examined the party; and he has been confined in an institution for the mentally ill or has been under continuous treatment for mental illness for a period of at least two years immediately preceding the commencement of the action; and the superintendent or other chief executive officer of the institution and one competent physician appointed by the court, after a thorough examination, make a certified statement under oath that it is their opinion that the party evidences such a want of reason, memory, and intelligence as to prevent the party from comprehending the nature, duties, and consequences of the marriage relationship and that, in the light of present day medical knowledge, recovery of the party's mental health cannot be expected at any time during his life. Notice of the action must be served upon the guardian of the person of the mentally ill person and upon the superintendent or other chief executive officer of the institution.

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§ 19-5-4. Effect of collusion, consent, guilt of like conduct, or condonation

(a) No divorce shall be granted under the following circumstances:

- (1) The adultery, desertion, cruel treatment, or intoxication complained of was occasioned by the collusion of the parties, with the intention of causing a divorce;
- (2) The party complaining of the adultery, desertion, cruel treatment, or intoxication of the other party was consenting thereto;
- (3) Both parties are guilty of like conduct; or
- (4) There has been a voluntary condonation and cohabitation subsequent to the acts complained of, with notice thereof.

(b) In all such cases, the respondent may plead in defense the conduct of the party bringing the action and the jury may, on examination of the whole case, refuse a divorce.

History

Laws 1850, Cobb's 1851 Digest, p. 226; Code 1863, § 1673; Code 1868, § 1714; Code 1873, § 1715; Code 1882, § 1715; Civil Code 1895, § 2429; Civil Code 1910, § 2948; Code 1933, § 30-109.

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§ 19-5-5. Petition; contents and verification; demand for detailed statement

- (a) The action for divorce shall be brought by written petition and process, the petition being verified by the petitioner.
- (b) The petition shall show:
 - (1) The residence or last known address of the respondent;
 - (2) That the applicant meets the residence requirements for bringing an action for divorce or that the applicant is bringing a counterclaim and is not required to meet the residence requirements;
 - (3) The date of the marriage and the date of the separation;
 - (4) Whether or not there are any minor children of the parties and the name and age of each minor child;
 - (5) The statutory ground upon which a divorce is sought; and
 - (6) Where alimony or support or division of property is involved, the property and earnings of the parties, if such is known.
- (c) The respondent, at any time before trial, may file with the court a written demand for a detailed statement of the facts on which the grounds in the petition are predicated. The respondent shall cause a copy of the demand to be served upon the petitioner or upon the petitioner's counsel of record and the facts demanded shall be added to the petition in the form of an amendment thereto.

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History

Laws 1802, Cobb's 1851 Digest, p. 223; Code 1863, § 1675; Code 1868, § 1716; Code 1873, § 1717; Code 1882, § 1717; Civil Code 1895, § 2432; Civil Code 1910, § 2951; Code 1933, § 30-105; Ga. L. 1946, p. 90, § 4; Ga. L. 1967, p. 761, § 1.

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§ 19-5-6. Grant of divorce to respondent without necessity of counterclaim

When a petition for divorce is filed, the respondent may recriminate in his answer and ask a divorce in his favor. If, at the trial, the court or jury believes that the respondent rather than the petitioner is entitled to a divorce, they may so find upon legal proof.

History

Ga. L. 1863-64, p. 45, § 1; Code 1868, § 1717; Code 1873, § 1718; Code 1882, § 1718; Civil Code 1895, § 2433; Civil Code 1910, § 2952; Code 1933, § 30-106; Ga. L. 1946, p. 90, § 5.

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§ 19-5-7. Transfer of property after filing of petition; lis pendens notice

After a petition for divorce has been filed, no transfer of property by either party, except a bona fide transfer in payment of preexisting debts, shall pass title so as to avoid the vesting thereof according to the final verdict of the jury in the case; provided, however, that the title to real property shall not be affected by the filing of an action for divorce unless a notice of lis pendens, as provided for by Code Section 44-14-610, is filed in the office of the clerk of the superior court of the county in which the real property is situated and is recorded by the clerk in a book kept by him for that purpose.

History

Orig. Code 1863, § 1677; Code 1868, § 1720; Code 1873, § 1721; Code 1882, § 1721; Civil Code 1895, § 2436; Civil Code 1910, § 2955; Code 1933, § 30-112; Ga. L. 1950, p. 365, § 1; Ga. L. 1979, p. 466, § 3; Ga. L. 1999, p. 81, § 19.

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§ 19-5-8. Pleading and practice

The same rules of pleading and practice applicable to ordinary civil actions shall apply to actions for divorce, alimony, and custody of minor children, except as otherwise specifically provided in this chapter. No verdict or judgment by default shall be taken in any such case but the allegations of the pleadings shall be established to the satisfaction of the court by the verified pleadings, by affidavit, by evidentiary hearing, or otherwise, as provided in Code Section 19-5-10.

History

Ga. L. 1895, p. 44, § 9; Civil Code 1895, §§ 2440, 5074; Civil Code 1910, §§ 2959, 5658; Code 1933, § 30-113; Ga. L. 1958, p. 315, § 1; Ga. L. 1967, p. 226, § 44; Ga. L. 1987, p. 565, § 1.

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§ 19-5-9. Incompetency to serve as juror

A juror who has conscientious scruples as to the granting of divorces shall be incompetent to serve in divorce cases. At the request of either party, the court may question the panel concerning such scruples.

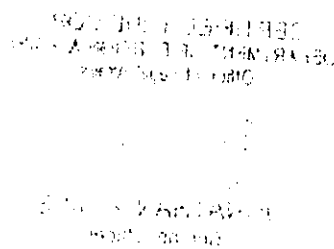
History

Laws 1840, Cobb's 1851 Digest, p. 225; Code 1863, § 1681; Code 1868, § 1724; Code 1873, § 1725; Code 1882, § 1725; Civil Code 1895, § 2443; Civil Code 1910, § 2962; Code 1933, § 30-114.

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§ 19-5-10. Duty of judge in undefended divorce cases; appointment of attorney; evidentiary hearings; evidentiary attacks on prior judgments

(a) In divorce cases which are not defended by the responding party, the judge shall determine that the asserted grounds for divorce are legal and sustained by proof or shall appoint an attorney of the court to discharge that duty for him. An evidentiary hearing for the determination of the existence of the grounds for divorce and for the determination of issues of alimony, child support, and child custody and other issues is authorized but not required. If no evidentiary hearing is held, the determination of such matters may be made upon the verified pleadings of either party, one or more affidavits, or such other basis or procedure as the court may deem proper in its discretion.

(b) The provisions of subsection (a) of this Code section shall apply to proceedings pending on July 1, 1987, as well as to proceedings filed on or after that date.

(c) Any motion to set aside or other proceeding to attack a judgment which attacks a judgment entered in a divorce case prior to July 1, 1987, and which is based upon an alleged failure to properly establish evidence supporting the judgment must be commenced prior to July 1, 1988, or thereafter be totally barred. The bar established by this subsection is in addition to and not in lieu of any other statute or rule of law which would operate as a bar to such a motion or other proceeding; and this subsection shall not operate to revive any otherwise barred right to prosecute any such motion or other proceeding.

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History

Orig. Code 1863, § 1687; Code 1868, § 1730; Code 1873, § 1735; Code 1882, § 1735; Civil Code 1895, § 2455; Civil Code 1910, § 2974; Code 1933, § 30-129; Ga. L. 1987, p. 565, § 2; Ga. L. 1990, p. 1315, § 1.

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§ 19-5-11. Use of confession as evidence; corroboration

The confessions of a party to acts of adultery or cruel treatment shall be received with great caution; if unsupported by corroborating circumstances and if made with a view to be evidence in the case, such confessions shall not be deemed sufficient to grant a divorce.

History

Orig. Code 1863, § 1674; Code 1868, § 1715; Code 1873, § 1716; Code 1882, § 1716; Civil Code 1895, § 2430; Civil Code 1910, § 2949; Code 1933, § 30-110.

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§ 19-5-12. Form of judgment and decree

(a) A final judgment of divorce shall be prepared so as to conform to the pleadings and the evidence and may restore a maiden or prior name, if requested. It shall be prepared in form substantially as follows:

"FINAL JUDGMENT AND DECREE

Upon consideration of this case, upon evidence submitted as provided by law, it is the judgment of the court that a total divorce be granted, that is to say, a divorce a vinculo matrimonii, between the parties to the above stated case upon legal principles.

It is considered, ordered, and decreed by the court that the marriage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and dissolved as fully and effectually as if no such contract had ever been made or entered into.

Petitioner and Respondent in the future shall be held and considered as separate and distinct individuals altogether unconnected by any nuptial union or civil contract whatsoever and both shall have the right to remarry.

Decree and order entered this ___ day of _____, __.

Judge, Superior Court"

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(b) When applicable, any one or more of the following clauses shall be included in the form of the judgment:

The court restores to (Petitioner/Respondent) his/her prior or maiden name, to wit:

The court awards custody of the children of the parties as follows:

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§ 19-5-13. Disposition of property in accordance with verdict

The verdict of the jury disposing of the property in a divorce case shall be carried into effect by the court by entering such judgment or decree or taking such other steps as are usual in the exercise of the court's equitable powers to execute effectually and fully the jury's verdict.

History

Orig. Code 1863, § 1680; Code 1868, § 1723; Code 1873, § 1724; Code 1882, § 1724; Civil Code 1895, § 2442; Civil Code 1910, § 2961; Code 1933, § 30-118.

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§ 19-5-14. New trials

New trials may be granted in actions for divorce as in other cases.

History

Orig. Code 1863, § 1679; Code 1868, § 1722; Code 1873, § 1723; Code 1882, § 1723; Civil Code 1895, § 2441; Civil Code 1910, § 2960; Code 1933, § 30-130.

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§ 19-5-15. Effect of divorce

A total divorce annuls a marriage from the time of the rendition of the decree, unless the divorce is granted for a cause rendering the marriage void originally, in which case the divorce serves to annul the marriage from its inception. However, the issue of the marriage shall not be rendered born out of wedlock by a divorce, except in cases of pregnancy of the wife by a man other than the husband at the time of the marriage, unknown to the husband.

History

Laws 1806, Cobb's 1851 Digest, p. 225; Ga. L. 1861, p. 62, § 1; Code 1863, § 1682; Code 1868, § 1725; Code 1873, § 1726; Code 1882, § 1726; Civil Code 1895, § 2444; Civil Code 1910, § 2963; Code 1933, § 30-119; Ga. L. 1988, p. 1720, § 2.

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§ 19-5-16. Restoration of maiden or prior name

In all divorce actions, a party may pray in his pleadings for the restoration of a maiden or prior name. If a divorce is granted, the judgment or decree shall specify and restore to the party the name so prayed for in the pleadings.

History

Ga. L. 1880-81, p. 121, § 1; Code 1882, § 3586a; Civil Code 1895, § 2446; Civil Code 1910, § 2965; Code 1933, § 30-121.

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§ 19-5-17. Determination of parties' rights; disability preventing remarriage forbidden

When a divorce is granted, the jury or the judge, as the case may be, shall determine the rights of the parties. No person shall be placed under a disability that would prevent remarriage.

History

Code 1868, § 1726; Code 1873, § 1727; Code 1882, § 1727; Civil Code 1895, § 2445; Civil Code 1910, § 2964; Code 1933, § 30-122; Ga. L. 1946, p. 90, § 12; Ga. L. 1960, p. 1024, § 1; Ga. L. 1979, p. 466, § 5.

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