

MARRIAGES:
MINISTERS:
MARRIAGE LICENSES:

A marriage may not be solemnized in Missouri unless a license for such has been obtained from a proper official in this state; marriages solemnized in Missouri on the basis of a license issued in another state are invalid.

(No. 82)

February 28, 1962

Honorable Frederick E. Steck
Prosecuting Attorney
Scott County
Sikeston, Missouri



Dear Mr. Steck:

We are in receipt of your request for an opinion of this office which reads as follows:

"Is it lawful for a minister to marry a couple who obtained their marriage license in another State in Missouri?"

"Also, I would like to know if a marriage performed by a qualified minister in the State of Missouri is valid if the man and woman obtained their marriage license in another State other than Missouri?"

We direct your attention to the first question contained in your request - whether a marriage may be solemnized on the basis of a marriage license in Missouri obtained by the parties involved in another state.

Section 451.040, RSMo 1959, insofar as it is material reads as follows:

"Previous to any marriage in this state, a license for that purpose shall be obtained from the officer authorized

Honorable Frederick E. Steck

to issue the same, and no marriage hereafter contracted shall be recognized as valid unless such license has been previously obtained, and unless such marriage is solemnized by a person authorized by law to solemnize marriages."

Section 451.080, RSMo 1959, insofar as it is pertinent, reads:

"The recorders of the several counties of this state, and the recorder of the city of St. Louis, shall, when applied to by any person legally entitled to a marriage license, issue the same * * *"

A reading of these statutes reveals that the license to be obtained prior to marriage in Missouri must be issued by an officer authorized to do so, and the officers so authorized are the recorders of the various counties of the state and the City of St. Louis. The required license, therefore, must be one issued in Missouri. The answer to your first question is in the negative. In this connection, we wish to call your attention to Section 451.120, RSMo 1959, which states in part:

"Any person who shall solemnize any marriage wherein the parties have not obtained a license, as provided by this chapter . . . shall be deemed guilty of a misdemeanor . . ."

We turn now to a consideration of your second question. Assuming that a marriage is solemnized by a person authorized to do so under Missouri law, and further assuming that the parties involved here obtained their license in another state, what is the legal status of the marriage?

Your attention is again directed to Section 451.040, paragraph one, particularly to the words, "no marriage hereafter contracted shall be recognized as valid unless such license has been previously obtained . . ."

As stated above, the "license" which parties seeking to be married must obtain is one issued by a recorder of one of the

Honorable Frederick E. Steck

various counties in the state or of the City of St. Louis. The last quoted part of Section 451.040 therefore makes any marriage solemnized in Missouri on the basis of a marriage license procured in another state invalid.

CONCLUSION

It is the opinion of this office that a marriage may not be solemnized in Missouri unless a license for such has been obtained from a proper official in this state; it is further our opinion that marriages solemnized in Missouri on the basis of a license issued in another state are invalid.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Ben Ely, Jr.

Yours very truly,

Thomas F. Eagleton
Attorney General

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