

Appendix A4 - Age Information In Census Records

A. General

In most years the census taker asked individuals their age in terms of "age at last birthday" as of the Census Day. The person's age was written in whole years, except as noted in the last column of the table below. At no time has the exact day of birth ever been asked.

Except for the 1950 census (see "Note" in F below), the census transcript shows complete years and months.

B. Example 1

The transcript shows "0/12 months." This indicates that the child was not yet one month old on the Census Day for that year's enumeration.

C. Example 2

The transcript shows "1 3/12", indicating that the child was one year and three months old on the Census Day.

D. Example 3

A child enumerated in the 1920 census who was born on 10/20/18 would be shown on the transcript as "1 2/12".

E. Use judgment

Since the census was rarely taken on Census Day, the census transcripts may not always reflect accurate information as of the Census Day. Exercise judgement when evaluating a census transcript which shows the age in months.

F. Census Day for period 1900 - 1970

The following table shows the date of the Census Day for the period 1900 - 1970, and how the age was asked for each census.

1900	June 1	age, month, and year
		Age shown in years and months if under 1 year old.
1910	April 15	age at last birthday
		Age shown in years and months if under 2 years old.
1920	January 1	age at last birthday

Age shown in years and months if under 5 years old.

1930 April 1 age at last birthday

Age shown in years and months if under 5 years old

1940 April 1 age at last birthday

Age shown in years and months if under 1 year old

1950 April 1 age at last birthday

Age shown in years and months if under 1 year old (see note below).

1960 April 1 quarter of year in which birth occurred and year

1970 April 1 age, month, and year

NOTE: In the 1950 census, the month of birth is shown for children who were less than 1 year old on April 1.

G. Different Census Day

In the following areas, the Census Day was not always the same as the Census Day for the rest of the U.S.

Area	Census Years	Census Taken As Of.
Alaska	1910	12/31/09
	1930	01/01/29
	1940	10/01/29
U.S. Virgin Islands	1920	11/01/17

Appendix A6 - Navajo Indian Tribal Census Rolls

A. Policy

Certifications from the official Navajo Indian tribal census rolls of the U.S. Bureau of Indian Affairs may be treated as public records of birth. Thus, a birth or religious record need not be sought if:

- The file contains such a certification, and

- The individual was enrolled in the tribal census before age 5.

B. Basis for records

Navajo tribal census records are normally established at birth based on copies of the same hospital notice as those sent to the various public recorders serving the Navajo reservations.

C. Location of records

These records are maintained at Window Rock, Arizona.

D. How to request information from records

Make requests for information from these records by letter to the Navajo Tribe through the RRB F/O, Albuquerque NM.

Include the following information about the claimant:

- Full name (including Indian name and nicknames), and
- DB, and
- Place of birth (if known), and
- Parents' names (including Indian names and nicknames), and
- Parents' census number, and
- The individual Navajo census number involved.

NOTE: Altered Tribal Census Records must be carefully evaluated in combination with other documents if a material discrepancy exists.

Appendix A7 - Seneca Indian Tribal Census Rolls

A. Policy

Certifications from the tribal census rolls of the Seneca Nation of Indians may be treated as public records of birth under the same conditions as for Navajo Indians (see Section A6 above).

B. Basis for records

From 1882 until about 1940, a yearly census was conducted in the Seneca Indian Nation. Beginning about 1906, these census records were based on New York State birth records. The individual's specific DB was recorded in the first census taken after his/her birth.

C. Location of records

The records are maintained by the clerk of the Seneca Nation. The clerk is changed every 2 years when the headquarters of the Nation is rotated between the Allegheny reservation in Salamanca, NY (serviced by the Olean FO) and the Cattaraugus reservation in Irving, NY (serviced by the Dunkirk FO). Both are serviced by RRB F/O, Buffalo, NY.

The records will be in Salamanca from November 1982 to November 1984; they will then return to Irving for 2 years and continue to rotate in November of even-numbered years.

D. How to request records

Make requests for these records by letter to the clerk of the Seneca Nation through the RRB F/O, Buffalo, NY.

Include the following information about the claimant:

- Name at birth, date of birth, and parents' names.

NOTE: There is no charge to members of the Seneca Nation.

Appendix A8 - National Archives Indian Records

A. Types

The National Archives in Washington, D.C. has extensive records from the Bureau of Indian Affairs. Two types of records are especially helpful for establishing age for Indian claimants, the Indian Census Rolls, and the Quarterly Reports of Indian Schools.

B. Indian Census Rolls 1885-1940

Indian Census Rolls (1885-1940) are grouped by families. They show the age or DB of each person and his/her relationship to the head of the family.

The records are not complete because:

- A census was not taken for every reservation or group of Indians for each year.
- Some Indians are not listed because they did not maintain a formal affiliation with a tribe under Federal supervision.

Few records are kept for the following Oklahoma tribes:

- Cherokee, Chickasaw, Choctaw, Creek, Seminole

C. Quarterly Reports of Indian Schools, 1910 - 1939

Quarterly Reports of Indian Schools (1910-1939) involve both Federal Government operated and private contract schools. They list students and their ages. The records are not complete in that they do not list all schools or even all students in a given school.

D. Other records

For a particular tribe, other types of records may be available. Because of the variety of information contained in the National Archives, it is best to consider each case on an individual basis. If enough information about a claimant is known, the personnel at the National Archives can determine what types of records might list the claimant.

E. Requests for Information

Make requests for information from Indian records in the National Archives, Washington (Downtown), DC District Office, 2100 M Street, NW, Washington, DC 20203.

The request should contain the following information regarding the claimant:

- Name (including Indian name and nicknames), and
- Tribe, band, reservation, or agency if known, and
- Date and place of birth, and
- Parent's names (including Indian names and nicknames), and
- Place(s) of residence as a child, and
- Siblings' names, and
- Name and location of Indian school(s) attended, and
- Approximate dates of school attendance.

Appendix D - Common-Law and Putative Marriages

D1. The following is a digest of State laws regarding the recognition of common-law marriages.

Common-law marriage is recognized if the State laws recognize it as a valid marriage. The RRA may refer to SSA POMS, [GN 00305.075 - State Laws on Validity of Common-Law Non-Ceremonial Marriages \(ssa.gov\)](#), as a source in determining the status of common-law marriage under state law.

Alabama

Recognized before January 1, 2017. Alabama does not recognize common-law marriages entered into on or after January 1, 2017. Common-law marriages entered into prior to January 1, 2017 are recognized and continue to be valid.

A valid common-law marriage in Alabama entered into before January 1, 2017 is one where a marriage (ceremonial or common-law) is contracted while an impediment exists, cohabitation of the parties in good faith after removal of the impediment will establish a valid common-law marriage as of the day the impediment is removed. Even if the parties at the time the marriage was contracted were aware of the impediment, but they nevertheless manifest or demonstrate their desire to live as a married couple (i.e., conduct themselves and their affairs as would a married couple). Continued cohabitation after the removal of the impediment raises a presumption that a valid common-law marriage arose immediately upon removal of the impediment.

Alaska

Recognized from March 7, 1939, through December 31, 1963; marriage license required, but solemnization not mandatory; however, there must be a marriage contract. Not recognized after December 31, 1963.

American Samoa

Submit to the deputy general counsel if alleged.

Arizona

Not recognized. See D2, Arizona for the possibility that a putative marriage may have been created. If persons, while domiciled in Arizona, contract a common-law marriage in a State where common-law marriages can be contracted, the marriage will not be recognized as valid in Arizona if the parties intended by their actions to evade Arizona's laws.

Note: While Arizona does not recognize common-law marriage, tribal law marriages, such as Navajo tribal common-law marriages, are valid when key criteria is met. See the Tribal Marriages section below for additional details regarding how a tribal marriage may be recognized as a ceremonial marriage when certain conditions are met.

Arkansas

Not recognized.

California

Not recognized. However, see D2, California for the possibility that a putative marriage may have been created.

Colorado

Recognized. A temporary stay by nonresidents will not of itself establish a common-law marriage. See D2, Colorado.

Connecticut

Not recognized.

Delaware

Not recognized.

District of Columbia

Recognized. Both an express mutual agreement to enter into a present marriage and cohabitation after the agreement are required. If the parties agree to be husband and wife in ignorance of, or with the knowledge of, a legal impediment to their marriage, upon removal of that impediment, a common-law marriage results between the parties if they continue to live together as husband and wife.

Florida

Recognized before January 2, 1968. The elements of a common-law marriage were legal capacity to contract marriage, mutual agreement of the parties to presently become husband and wife, and consummation of the agreement by cohabitation. Where the relationship was not valid in the beginning because one party had a prior undissolved marriage, their cohabitation as husband and wife after removal of the impediment and before January 2, 1968, created a common-law marriage; no new agreement of marriage after removal of the impediment had to be established.

Where a purported common-law marriage arose before January 2, 1968, and such marriage was not valid because of an impediment but such impediment was removed after January 1, 1968, then a common-law marriage did not arise.

Georgia

Recognized before January 1, 1997. Georgia does not recognize common-law marriages entered into on or after January 1, 1997. Common-law marriages entered into prior to January 1, 1997 are recognized and may be evidenced by cohabitation and repute alone, from which an agreement may be inferred in the absence of evidence negating such an agreement. Good faith by at least one party must be shown to establish a common-law marriage by cohabitation and reputation. Where at least one of the parties to a common-law relationship, void from the beginning, believed in good faith that the marriage was valid and they continued to cohabit for many years after removal of the impediment and children were born of the relationship, it may be inferred that the parties agreed, after removal of the impediment, that they would be husband and wife.

Guam

Not recognized since at least 1948. If common-law marriage is alleged to have been contracted prior to 1948, submit to the deputy general counsel.

Hawaii

Not recognized.

Idaho

Not recognized unless the common law marriage contract was established prior to January 1, 1996.

Illinois

Not recognized. (See D2, Illinois for the possibility that a putative marriage may have been created.) Illinois does not recognize the common-law marriage of its domiciliaries which arise out of brief sojourns to common-law marriage States.

Effective October 1, 1977, Illinois recognizes as valid a void marriage, which would have been valid but for an impediment, after removal of the impediment.

Effective October 1, 1977, a ceremonial marriage prohibited because it was entered into prior to the dissolution of a prior marriage becomes valid when the impediment is removed and the parties continue to cohabit. Where the parties did not cohabit subsequent to September 30, 1977, this statute is not applicable and the marriage is not validated.

Indiana

Recognized before January 1, 1958. If parties in good faith had attempted to contract a marriage to which there was an impediment, but both parties had believed in good faith they were validly married, a valid common-law marriage was created by their having lived together as husband and wife in Indiana after removal of the impediment. If either party knew of the impediment before its removal, it is necessary to have an agreement or ceremonial marriage after removal of the impediment in order to establish a valid marriage.

Iowa

Recognized. Evidence of cohabitation of the parties after the agreement to be husband and wife is not required.

Kansas

Recognized. Evidence of cohabitation of the parties after the agreement to be husband and wife is not required. In the absence of proof to the contrary, an agreement to be

husband and wife may be implied where the parties have cohabited as husband and wife and were reputed to be such. Where a marriage is contracted while an impediment exists, cohabitation of the parties in good faith after removal of the impediment will establish a valid common-law marriage.

Kentucky

Not Recognized.

Louisiana

Not recognized. However, see D2, Louisiana for the possibility that a putative marriage may have been created.

While a common-law marriage, valid where entered into is ordinarily recognized, a relationship originally bigamous and known to be such by the parties will not be recognized as a common-law marriage in the absence of a new ceremonial marriage or specific marital agreement even though continued cohabitation after removal of the impediment would give rise to a common-law marriage under the laws of the State where entered into.

Maine

Not recognized.

Maryland

Not recognized.

Massachusetts

Not recognized. However, by statute, if parties domiciled in Massachusetts enter into a ceremonial marriage while one party is barred from remarrying by a Massachusetts divorce, and one party entered into the marriage in good faith, a valid marriage will arise upon removal of the impediment if the parties are at that time domiciled in Massachusetts. A new ceremonial marriage is not required.

Michigan

Recognized before January 1, 1957. A common-law marriage could have been created in Michigan if the parties had agreed to be husband and wife and had held each other out to the public as such. If they had agreed to be husband and wife in a State not recognizing common-law marriage, their mere cohabitation as husband and wife in Michigan would have established a valid common-law marriage.

Even though there was no evidence of an express agreement to be husband and wife before January 1, 1957, it is possible to infer such an agreement. This inference can be

based on long cohabitation of the parties during which time they had consistently held themselves out to friends, relatives, and to the public as husband and wife.

Minnesota

Recognized before April 27, 1941. (See D2, Minnesota for the possibility that a putative marriage may have been created.) Minnesota will not recognize the common-law marriage of its domiciliaries which arise out of brief sojourns to common-law marriage States.

Mississippi

Recognized before April 5, 1956.

Missouri

Not recognized.

Montana

Recognized.

Nebraska

Not recognized.

Nevada

Recognized before March 29, 1943.

New Hampshire

Not recognized. However, persons cohabiting and acknowledging each other as husband and wife and generally reputed to be such for three years and until one of them dies shall thereafter be deemed to have been legally married. All events must occur in New Hampshire.

New Jersey

Not recognized.

New Mexico

Not recognized.

Note: While New Mexico does not recognize common-law marriage, tribal law marriages, such as Navajo tribal common-law marriages, are valid when key criteria is met. See the Tribal Marriages section below for additional details regarding how a tribal marriage may be recognized as a ceremonial marriage when certain conditions are met.

New York

Not recognized.

North Carolina

Not recognized.

North Dakota

Not recognized.

Ohio

Recognized before October 10, 1991. A temporary stay by nonresidents will not suffice as grounds for establishing a common-law marriage. Common-law marriages arising on or after October 10, 1991 will not be recognized.

Oklahoma

Recognized. A temporary stay by nonresidents will not suffice as grounds for establishing a common-law marriage.

Oregon

Not recognized.

Pennsylvania

Recognized on or before January 1, 2005. Prior to January 2, 2005, an agreement to be husband and wife was essential to establish a common-law marriage in Pennsylvania; however, this agreement was implied if the parties cohabited as husband and wife for many years unless evidence indicated the parties did not agree to be husband and wife.

Where only one of the parties to a marriage, including a common-law marriage, knew it was void because of an impediment, the marriage was valid without a new agreement if the parties continued to live together, as of January 1, 1954, or the date of removal of the impediment, whichever was later. Where both of the parties knew it was void because of an impediment, a new agreement was necessary after the removal of the impediment. If neither party knew of the impediment, mere cohabitation of the parties as husband and wife in Pennsylvania after removal of the impediment made the marriage valid.

Puerto Rico

Not recognized.

Rhode Island

Recognized. Where parties contracted a bigamous ceremonial marriage, a valid common-law marriage will arise from the parties' cohabitation as husband and wife after removal of the impediment. No new agreement of marriage is required if the evidence establishes clearly and convincingly that the parties intended at all times to be husband and wife. It is not necessary that the bigamous marriage be contracted in good faith by either party. However, if a bigamous common-law marriage is involved and the parties were aware of the impediment, a new agreement is necessary.

South Carolina

Recognized. Where parties contract a bigamous marriage in good faith and both parties believe they are married, a valid common-law marriage arises if they cohabit as husband and wife after removal of the impediment. However, if either party knew of the impediment, a new agreement of marriage after removal of the impediment, followed by cohabitation as husband and wife, is required to establish a common-law marriage.

South Dakota

Recognized before July 1, 1959. Where both parties to an attempted common-law marriage knew it was bigamous, a new marriage contract was required to establish a valid common-law marriage after removal of the impediment.

Tennessee

Not recognized. However, where parties free to marry have lived together for a long time and held themselves out to the public as husband and wife, both parties as well as third parties, are in law not permitted to deny that they were validly married, provided there is an affirmative showing that (1) both parties acted in good faith in that they each honestly believed the relationship constituted a valid legal marriage; or (2) the party seeking the benefit of estoppel relied in good faith upon the representation of the other that the relationship constituted a valid legal marriage; or (3) the cohabitation followed a defective ceremonial marriage which the parties believed constituted a valid ceremonial marriage. This relationship in effect gives the survivor, and children of the marriage, inheritance rights in Tennessee; it has no effect outside Tennessee.

Texas

Recognized.

Prior to January 1, 1970, good faith at the inception of the relationship on the part of at least one of the parties, or a new agreement after removal of the impediment was required. Good faith means an intent to marry, together with the belief that there is no impediment to such marriage. If the parties enter into a relationship and all elements for a valid common-law marriage are present except there is a prior undissolved marriage known to the parties, there need be no new express agreement to give rise to a valid common-law marriage after removal of the impediment. Such agreement may be

implied from continued cohabitation of the parties and their holding out to the public that they are husband and wife if during their relationship they maintained a continuous matrimonial intent.

Effective January 1, 1970, where the relationship was not valid because there was a prior undissolved marriage, a common-law marriage becomes valid when the prior marriage is dissolved if, since that time, the parties have lived together as husband and wife and presented themselves to others as being married.

The marriage of a man and woman may be proved by evidence that (1) they agreed to be married (prior to September 1, 1989 this agreement could be inferred if (2) was proved); and (2) after the agreement they lived together in Texas as husband and wife and represented to others there that they were married.

The parties to an "informal marriage" may execute a declaration of such marriage, which will be recorded by the county clerk. The Texas law provides that such an "informal marriage" may be proved by evidence that a declaration of marriage was validly executed and further provides that the execution of a declaration is prima facie evidence of the marriage. Forward to the Deputy General Counsel all cases in which such a declaration is submitted and the evidence in file does not establish that factors (1) and (2) listed in the preceding paragraph are met.

A temporary stay by non-residents in Texas will not of itself establish a common-law marriage.

Effective September 1, 1989, any judicial or administrative proceeding in which a common-law marriage is to be proved must commence no later than one year after the date on which the relationship ended (usually, separation or death) or no later than one year after September 1, 1989, whichever is later. See note below for an explanation of the one year time limit.

Also, effective September 1, 1989, an agreement to be married may no longer be inferred based on proof that the parties to an alleged common-law marriage lived together as husband and wife. Whether or not an agreement exists requires a separate determination.

NOTE: The one year time limit is satisfied if an applicant seeking to prove a common law marriage:

1. Files an application with the RRB no later than one year after the relationship ended (usually the date of separation or death). The determination does not have to be made before the end of the time limit; or
2. Submits a favorable determination from a Texas judicial or administrative proceeding.

Tribal Marriages

Tribal marriages are recognized as valid under laws of various states if:

- A. There was a tribal government to which the parties were subject at the time of the marriage; and
- B. The parties at the time of the marriage had been following tribal customs and laws; and
- C. The marriage was in accordance with tribal customs and laws.

Each case would be individually reviewed to ensure the marriage meets requirements under both state law, RRB rules and regulations.

When an applicant (employee, spouse, or survivor) reports a marriage under Indian tribal custom, the field office will develop and report all the facts that the applicant provides. The evidence must establish that the applicable requirements have been met for the marriage to be binding under Indian tribal customs and laws and, therefore, recognized as valid under state law.

Refer to [FOM1 925.25](#) and SSA POMS procedure [GN 00305.080 Navajo Tribal Common-Law Marriages](#) for additional information.

Utah

Effective April 27, 1987, a common-law marriage will be recognized in Utah if it arises out of a contract between two consenting parties who: 1) are capable of giving consent; 2) are legally capable of entering a solemnized marriage under Utah law; 3) have cohabited; 4) mutually assume marital rights, duties and obligations; and 5) who hold themselves out as and have acquired a uniform and general reputation as husband and wife. The determination or establishment of a marriage must occur during the relationship or within one year following the termination of that relationship. Evidence of a marriage may be manifested in any form.

The one year time limit is satisfied if the determination or establishment of a common law marriage occurs during the relationship or within one year following the termination of that relationship. To ensure that the determination is timely, develop promptly any claim where a Utah common law marriage is alleged.

If a Utah common law marriage has not been proven timely in a Utah proceeding, the marriage never existed.

Note: While Utah does recognize common-law marriage, tribal law marriages, such as Navajo tribal common-law marriages, are valid when different key criteria is met. See the Tribal Marriages section above for additional details regarding how a tribal marriage may be recognized as a ceremonial marriage when certain conditions are met.

Vermont

Not recognized.

Virginia

Not recognized.

Virgin Islands

Recognized before September 1, 1957.

Washington

Not recognized.

West Virginia

Not recognized.

Wisconsin

Not recognized. However, if parties enter into a common-law marriage in good faith in a State where such marriages could be contracted during a period when an impediment to their marriage exists, Wisconsin will recognize their marriage as valid if they later live in Wisconsin and cohabit as husband and wife after removal of the impediment. A valid marriage will arise without any new agreement of marriage by the parties. Wisconsin will not recognize the common-law marriage of its domiciliaries which arise out of brief sojourns to common-law marriage States.

Wyoming

Not recognized.

D2. Putative Marriages

Under the laws of some States, the innocent party to a void marriage may acquire inheritance rights as a spouse. This relationship is called a putative marriage. The essential basis of a putative marriage is a good faith belief in the existence of a valid marriage at its inception and continuing until the spouse's application is filed in a life case or until the employee dies in a death case. The marriage may be invalid because of some defect of which the putative spouse was unaware, such as a prior undissolved marriage of one of the parties, or failure to meet the requirement of solemnization. Putative marriages should be distinguished from deemed marriages, discussed in [RCM section 4.3.15](#).

A person who maintained a putative marriage with the employee under applicable State law and who was then divorced from the employee may qualify as a divorced spouse or surviving divorced spouse. The good faith belief must have lasted until a final divorce was obtained.

Arizona

A person who maintained a good faith belief in the validity of a legally invalid marriage is accorded certain inheritance rights to property acquired during the course of the relationship, and therefore, acquires the status of putative spouse in Arizona. Examiners will submit to the General Counsel any case in which either party alleges a putative marriage in Arizona. Where the putative spouse learned of the defect in the marriage before the time as of which status as a spouse must be established, but the parties undertook within a reasonable time to legalize their marriage, then the status as a spouse continues.

California

Prior to February 4, 1983, where at least one of the parties to an invalid marriage, either ceremonial or common-law, entered into the marriage in good faith, believing that it was valid, a spouse has status as a putative spouse and inheritance rights as a spouse so long as such good faith belief continued. Where the putative spouse learned of the defect in the marriage before the time as of which status as a spouse must be established, but the parties undertook within a reasonable time to legalize their marriage, then the status as a spouse continued.

With one limited exception noted below, a putative marriage based on a common-law relationship is no longer recognized in California. This is a change of position effective for claim determinations on or after February 4, 1983. A putative marriage can now be established only on the basis of an invalid ceremonial marriage.

EXCEPTION: If the parties secured a marriage license but did **not** go through a marriage ceremony, and the parties:

- a) were individuals unfamiliar with California laws and customs;
- b) were unable to ascertain legal requirements due to an inability to read or speak English; and
- c) had reason to believe that the license alone made them legally married.

Examiners will submit any such case to the General Counsel, after development of the statement regarding the parties' good faith belief, their language ability, length of stay in the U.S., and general information on the marriage laws in their native country.

Colorado

Any person who has cohabited with another to whom he/she is not legally married, in the good faith belief that he/she was married to that person, is a putative spouse, until knowledge of the fact that he/she is not legally married terminates his/her status and

prevents acquisition of further rights. Children born of putative spouses are legitimate. A putative spouse acquires the rights conferred upon a legal spouse, whether or not the marriage is prohibited under State law, declared invalid, or otherwise terminated by court action. If there is a legal spouse or other putative spouses, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses.

A putative marriage may be established in Colorado to give the status of wife or husband to a person who applies for benefits as the spouse of a railroad employee on or after January 1, 1974, or to give the status of widow or widower to a person who applies for benefits as the surviving spouse of a railroad employee who died on or after January 1, 1974.

Any case in which either party alleges a putative marriage in Colorado will be submitted by examiners to the General Counsel.

Illinois

Effective October 1, 1977, the Illinois Marriage and Dissolution of Marriage Act provides the following with regard to the concept of putative spouse in Illinois:

Any person, having gone through a marriage ceremony, who has cohabited with another to whom he/she is not legally married in the good faith belief that he/she was married to that person is a putative spouse; until knowledge of the fact that he/she is not legally married terminates his/her status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse, whether or not the marriage is prohibited or declared invalid under state law. If there is a legal spouse or other putative spouse, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses. The provision of Illinois law concerning putative marriages does not apply to common-law marriages contracted in the State after June 30, 1905.

Louisiana

Prior to January 1, 1988:

If at least one of the parties of a ceremonial marriage, or to what one of the parties actually believes was a ceremonial marriage, reasonably and in good faith believes that the marriage is valid, a putative marriage may be created under Louisiana law. A putative marriage, if in force at the death of one party, gives inheritance rights to the innocent spouse and any children born of the relationship even though the marriage is bigamous or otherwise void.

Effective January 1, 1988:

An absolutely null marriage nevertheless produces civil effects in favor of a party who contracted in good faith for as long as that party remains in good faith. Such a marriage is regarded as putative.

However, when the cause of the nullity is one party's prior undissolved marriage, the civil effects (i.e. entitlement to retirement or survivor benefits based on the marriage) continue in favor of the other party, regardless of whether the latter remains in good faith, until the putative marriage is pronounced null or the latter party contracts a valid marriage.

A putative marriage may be established in Louisiana under the above conditions to give the status of spouse to a person who applies for benefits as the spouse of a railroad employee on or after January 1, 1988, or to give the status of widow(er) to a person who applies for benefits as a surviving spouse of a railroad employee who died on or after January 1, 1988.

Minnesota

Any person who has cohabited with another to whom he/she is not legally married, in the good faith belief that he/she was married to that person, is a putative spouse until knowledge of the fact that he/she is not legally married terminates his/her status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse whether or not the marriage is prohibited or declared a nullity.

A putative marriage may be established in Minnesota to give the status of wife, husband, widow, or widower to a person who applies for benefits as a spouse or surviving spouse on or after March 1, 1979, or who filed an application before March 1, 1979, that has not yet been finally adjudicated.

Any case in which a putative marriage is alleged in Minnesota will be submitted by examiners to the General Counsel.

Texas

The state of Texas Supreme Court has made past rulings that may allow for putative marriages. Therefore, any case in which a putative marriage is alleged in Texas should be submitted to the Policy and Systems Group Mailbox to be reviewed and sent to the General Counsel to make an official decision on the marriage.

Appendix G - Right Of Adopted Child To Inherit From Natural Parent

1. General

The list of States in this appendix deals with the right of an adopted child to inherit from his/her natural parent where the adoption occurred before the death of the natural parent. When an adopted child retains inheritance rights, dependency must be established to be eligible for an insurance annuity; the child must have been living with or receiving contributions from his/her natural parent. Dependency is not a requirement for a lump-sum payment (RLS, deferred LSDP, or annuities due but unpaid at death).

Where a child was adopted in a State in which he/she kept the right to inherit from the natural parent and the natural parent died domiciled in a State where an adopted child

may not inherit from a natural parent or vice versa, refer the case to for submission to the DGC.

References below to effective dates based upon the death of the natural parent before or after a given date should also be read to refer to an application for benefits as a child of a living parent filed before or after the given dates.

2. States Where Adopted Child May Inherit From The Natural Parent

Alabama	Maine	Texas
Alaska	Oklahoma	Utah
Illinois	Rhode Island	Vermont
Kansas	South Dakota	Wyoming
Louisiana	Tennessee	

3. States Where Adopted Child May Not Inherit From Natural Parent

Connecticut	New Hampshire
	South Carolina - Effective 1-1-76

4. States And Territories Where Adopted Child's Right To Inherit From The Natural Parent Is Questionable

When the natural parent died before the law was amended to provide that an adopted child may not inherit from the natural parent, the law applied will be that in effect at the time the natural parent died.

American Samoa

HQ will submit to DGC.

Arizona

If either an interlocutory or final decree of adoption was entered before 6/26/52, forward for submission to DGC. If both decrees were entered on or after 6/26/52, child may not inherit unless the natural parent is the spouse of the adopting parent.

Arkansas

May inherit if adopted prior to 7/5/77. Effective with adoptions on or after 7/5/77, child may not inherit unless the natural parent is the spouse of the adopting parent.

California

Child may not inherit unless natural parent is spouse of adopting parent and retains custody and control of child.

Colorado

If natural parent died before 5-1-61, the child may inherit. If the natural parent dies after 4-30-61, the child may not inherit unless the natural parent is the spouse of the adopting parent.

Delaware

If natural parent died before 7-1-52, child may inherit. If natural parent of child, adopted 6-30-52, dies after that date, child may not inherit unless natural parent is spouse of adopting parent. If adoption occurs before 7-1-52, and natural parent dies after that date, HQ will submit to DGC.

District of Columbia

Child adopted after 8-24-37 may not inherit unless natural parent is spouse of the adopting parent.

Florida

On and after 1/1/76, an adopted person can inherit from the adoption parent(s) who die on or after that date but not from the natural parent(s) unless the person is adopted by the spouse of the natural parent. If the adopting or natural parent(s) died prior to January 1, 1976, the adopted person could inherit from either or both the natural and adopting parent(s).

Georgia

Prior to January 1, 1978, may inherit. Effective January 1, 1978, may not inherit, except in limited circumstances where the parent died without having surrendered or terminated parental rights. Circumstances where parental rights have not been surrendered or terminated are: (1) where the child has been abandoned by the parent; (2) where the parent cannot be found after diligent search; or (3) where the parent is insane or otherwise incapacitated from surrendering such rights, and the court is of the opinion that adoption is for the best interest of the child. Also, surrender or termination of parental rights is not a prerequisite to adoption if the petitioner for adoption is the spouse of the other parent of the child, brother, sister, aunt, or uncle of the child, or son or daughter of either parent if: the parent failed for one year or longer prior to the filing

of petition for adoption to (1) communicate (or make a bonafide effort to communicate) with the child; or (2) provide for the care and support of the child under law or pursuant to a judicial decree if court believes adoption is in the best interest of the child. Submit case to the DGC if there is a question about whether parental rights have been surrendered.

Guam

HQ will submit to DGC.

Hawaii

Child may not inherit unless natural parent is spouse of adopting parent and dies on or after 7-1-53. If natural parent is spouse of adopting parent but died before 7-1-53, HQ will submit to DGC.

Idaho

Child adopted on or after 7-1-71 may inherit if natural parent is spouse of adopting parent. Child adopted between 7-1-69 and 6-30-71 inclusive may not inherit. If adoption occurred before 7-1-69, HQ will submit to DGC.

Indiana

If natural parent died before 1-1-54, child may inherit. If natural parent dies after 12-31-53, child adopted during minority may not inherit unless natural parent is spouse of adopting parent. If natural parent dies after 7-5-61, child who was adopted during minority may not inherit unless such deceased natural parent or other natural parent is spouse of adopting parent, and child was born in wedlock.

Iowa

If natural parent died before 7-1-69 or on or after 1-1-77, the child may inherit. If the natural parent died on or after 7-1-69 and before 1-1-77 child may not inherit unless he had attained majority at the time of adoption or was related to one or both of the adopting parents within the fourth degree of consanguinity. Prior to 7-1-72, a child attained majority at age 21 or marriage, whichever occurred first. 7-1-72, or later a child attained majority at age 19 or marriage, whichever occurs first. Cases involving question of whether a child is related to the adoptive parents within the fourth degree of consanguinity will be submitted to DGC.

Kentucky

If natural parent died before 2-27-56, the child may inherit. If natural parent dies after 2-26-56, child may not inherit unless natural parent is spouse of adopting parent.

Maryland

If natural parent died prior to 6-1-63, child may inherit. If natural parent died after 5-31-63, child may not inherit.

Massachusetts

If natural parent died before 7-4-67, child may inherit. If child is adopted before natural parent's death and natural parent dies after 7-3-67, child may not inherit.

Michigan

If natural parent died before 1/1/75, child may inherit. If natural parent died on or after 1/1/75, child may not inherit.

Minnesota

Child adopted before April 19, 1951, may inherit from natural parent. After April 18, 1951, child may not inherit unless the natural parent is the spouse of an adopting stepparent.

Mississippi

Child may inherit from the natural parent, unless provided otherwise in the decrees of the adoption.

Missouri

Child may not inherit except in some cases where adoption is by stepparent. When adoption is by stepparent, and where natural parent who is spouse of stepparent is joint petitioner, child may inherit from such natural parent who dies after 5-20-48. Other cases where natural parent in question is spouse of adopting stepparent will be submitted to DGC.

Montana

If the natural parent died before 10/1/81, the child may inherit. If the natural parent dies after 9/30/81, the child may not inherit unless a natural parent is the spouse of the adopting parent.

Nebraska

If the natural parent died before January 1, 1977, the child may inherit unless the child was adopted before August 29, 1943, and the terms and conditions of consent and petition for adoption provide otherwise. If the natural parent dies on or after January 1, 1977, the child may not inherit unless the natural parent is the spouse of the adopting parent.

Nevada

If parent died before 3-28-53, child may inherit. If parent dies after 3-27-53, child may not inherit unless the natural parent is the spouse of the adopting parent.

New Jersey

If the natural parent died before 1-1-54, child may inherit. If natural parent dies after 12-31-53 and prior to 7-21-66, child may not inherit unless the natural parent is the spouse of the adopting parent and consented to the adoption. If either parent dies after 7-20-66, child may inherit from such natural parent provided adopting parent is spouse of one natural parent and natural parent married to adopting parent consented to the adoption.

New Mexico

If natural parent died before 6-8-51, child may inherit. If natural parent dies on or after 6-8-51, child may not inherit unless the natural parent is the spouse of the adopting parent.

New York

If natural parent died before 3-1-64, child may inherit. If natural parent died on or after 3-1-64, child may not inherit unless natural parent is the spouse of the adopting parent and consented to the adoption.

North Carolina

Child adopted before March 15, 1941, may inherit from natural parent. Child adopted for life after March 14, 1941, and before March 11, 1949, may not inherit except where otherwise the estate would escheat to the State. If adopted only for the minority of the child, adopted child may inherit. Child adopted after March 10, 1949, may inherit, except where adoption proceedings had begun before that date and were completed after that date in accordance with law in effect between March 15, 1941 and March 11, 1949. In such cases above rule covering that period would apply. However, where natural parent dies after 6-30-55, the case will be submitted to DGC.

North Dakota

Children who are adopted by proceedings which were pending on or before 7-1-71 may inherit from their natural parents. Where adoption proceedings are instituted after 7-1-71, an adopted child may no longer inherit from his natural parents, except (a) with respect to his natural parent who is the spouse of the petitioner in the adoption proceedings, and (b) with respect to a natural parent who died without the parent-child relationship having been terminated when the child subsequently is adopted by a spouse of the surviving natural parent.

Ohio

After 8-27-51, a child generally may not inherit. However, if the natural parent is the spouse of the adopting parent, inheritance rights are not terminated unless there is evidence of relinquishment or forfeiture of rights by the natural parent. Send the case to HQ for submittal the case to the DGC if a natural parent is the spouse of the adopting parent and there is reason to believe that the natural parent's rights may have terminated.

Oregon

If the natural parent died before 7-21-53, child may inherit. If the natural parent dies on or after 7-21-53, child may not inherit unless the natural parent is the spouse of the adopting parent. These rules apply regardless of the date or place of adoption.

Pennsylvania

Child may not inherit unless the natural parent is the spouse of the adopting parent.

Puerto Rico

Child adopted after September 12, 1953, may not inherit. Child adopted before September 12, 1953, may inherit unless petition that such adoption be governed by law in effect after September 12, 1953, is granted.

Virgin Islands

Any case which arises involving the laws of the Virgin Islands should be referred to the DGC.

Virginia

If natural parent died before 6-30-54, child may inherit. If natural parent dies after 6-29-54, child may not inherit unless the child is adopted by a stepparent.

Washington

If natural parent died before 7-1-67, child may inherit. If natural parent died after 6-30-67, child may not inherit.

West Virginia

If natural parent died before 3-11-59, child may inherit. If natural parent dies after 3-10-59, child may not inherit unless the natural parent is the spouse of the adopting parent.

Wisconsin

If natural parent died before 7-1-56, child may inherit. If natural parent dies after 6-30-56, child may not inherit unless the natural parent is the spouse of the adopting parent.

Appendix H - Effective Date And Availability Of Adoption Decree

1. Explanation of Entries

In those States followed by symbol (1), certified copies of adoption decrees may be obtained without a court order. In those States followed by symbol (2), adoptive parents may obtain copies without a court order. In those States followed by symbol (3), copies of adoption decrees may not be obtained without a court order.

2. Effective Date of Adoption Decrees Under State Laws

This digest of State laws below gives the number and types of decrees and the effective dates for entitlement to child's benefits.

Alabama (2)

There is an interlocutory decree to be followed by a final decree after child has lived with adopting parents for 6 months (1 year, prior to 9/15/61). Court has power to omit interlocutory decree where adoption is by stepparent and child has lived with stepparent for 1-year. Also, after 9/14/61, court has power to omit interlocutory decree where adoption is by child's grandparent, brother, sister, aunt, uncle (singly or with their spouses) and child has lived with adopter for 1 year.

Adoption is effective from date of final decree.

Alaska (3)

There is one decree; adoption is effective from date of decree.

American Samoa

There is one decree; adoption is effective from date of the decree. If adoption is by other than judicial proceedings, forward to an adjudication unit for submission to DGC.

Arizona (3)

There is an interlocutory decree to be followed by a final decree after the child has lived for 6 months in the home of the adopting parents after entry of interlocutory decree (1 year prior to 6/20/68.)

Adoption is effective from date of final decree.

Arkansas (3)

The Arkansas Supreme Court issued a decision in 1982 to clarify the effective date of adoptions. This decision provides that, "after November 22, 1982, any adoption decree is a final decree unless subsequent hearing is required by the terms of the decree."

There was one decree before June 12, 1947. From 6/12/47 through 7/4/77, an interlocutory decree was granted followed by a final decree after 6 months. The adoption was effective on the date of the interlocutory decree.

On and after 7/5/77, a court may issue either a final decree or an interlocutory decree which automatically becomes a final decree on a day specified therein. An adoption is effective on the date of the final decree or on the date specified in the interlocutory decree as the date that the decree automatically becomes final.

California (2)

There is one decree; adoption is effective from date of the decree.

Colorado (3)

There was one decree before 5/20/49. From 5/20/49 through 3/28/51, there was an interlocutory decree to be followed by a final decree in period of 1 year or less, as court might deem advisable. After 3/28/51, court has discretion to enter final decree immediately or interlocutory decree to be followed by final decree after one year or less, as court may deem advisable.

Adoption is effective from date of final decree.

Connecticut (2)

There is an interlocutory decree to be followed by final decree within not less than 12 or more than 13 months. Court has discretion to omit interlocutory decree and enter final decree immediately.

Adoption is effective from date of interlocutory decree or, if omitted, from date of final decree.

Delaware (3)

Before 7/1/52, there was an interlocutory order to be followed after 1 year by final order. Court had discretion to omit interlocutory order and enter final order immediately. After 6/30/52, there was one decree, a final decree.

Adoption is effective from date of final decree if after 6/30/52. Before 7/1/52, adoption was effective from date of interlocutory order or, if omitted, from date of final order.

District of Columbia (3)

In proceedings instituted before 6/9/54, court could enter either final decree or interlocutory decree reciting date (within 6 months from entry of such decree) upon which it would become final. In proceedings instituted after 6/8/54, court can enter either final decree, or interlocutory decree reciting date (not less than 6 months, nor more than 1 year, from entry of such decree) upon which it will become final.

Adoption was effective from entry of final decree or date interlocutory decree became final, where proceedings were instituted before 6/9/54; adoption is effective from date of entry of final or interlocutory decree if proceedings were instituted after 6/8/54.

Florida (3)

Before 5/20/55, there was in interlocutory decree to be followed by a final decree after period not exceeding 1 year. After 5/19/55, there is a final decree.

Adoption is effective from date of final decree.

Georgia (3)

Where a petition was filed before 5/1/66, there was an interlocutory decree followed after 6 months by a final decree.

Adoption was effective from date of the final decree.

Where a petition is filed after 4/30/66, there is only a final decree which is entered not less than 90 days from the filing of the petition. Adoption is effective from the date of final decree.

Guam

There is one decree; adoption is effective from date of decree.

Hawaii (3)

Statute provides for one decree, but postpones creation of a complete adoptive status for a period not exceeding 6 months at discretion of court. Adoption is effective from date recited therein.

Adoption is effective for termination purposes from date of entry of decree. Forward to the adjudication unit for submission to DGC if effective date of decree is subsequent to its entry. Adoption is effective for purposes of entitlement to child's benefits from date recited in decree.

Idaho (3)

There is one decree; adoption is effective from date of decree.

Illinois (1)

There was one decree before 1/1/60. After 12/31/59, there is interim order of custody and control to be followed in 6 months by decree of adoption. Court may waive interim order.

Adoption is effective from date of decree.

Indiana (3)

There is one decree; adoption is effective from date of decree.

Iowa (3)

There is one decree; adoption is effective from date of decree.

Kansas (2)

Before 6/30/51, there was an interlocutory order to be followed after 6 months by final order. After 6/29/51, there is only final order which may be entered not less than 30 days after filing of petition.

Adoption is effective from date of final order.

Kentucky (3)

There is one decree. However, under special acts granting certain orphan homes authority to contract for adoption, no decree is required.

Adoption is effective from date of decree (date contract recorded in County Clerk's office).

Louisiana (3)

In proceedings involving children under 17, an interlocutory decree is first entered, followed in not less than 6 months by a final decree. Court may dispense with interlocutory decree procedure and enter final decree immediately in some cases where child has been in adopter's home for 6 months. Adoption is effective from date of final decree.

For children 17 or over, adoption is by notarial act of adoption, filed with the clerk of the court of the parish where executed (Register of Conveyances in parish of Orleans). Adoption is effective from date of filing. Forward copy of instrument to the adjudication unit for submission to DGC for an opinion as to its validity as a deed of adoption.

Maine (3)

There is one decree; adoption is effective from date of decree.

Maryland (3)

On and after 6/1/47, there is usually one decree, but court may enter an interlocutory decree for a period up to 1 year. Adoption is effective from interlocutory or final decree.

With respect to final decrees entered before 6/1/47, and decrees entered in proceedings pending before such date, there is only one decree, enrolled 30 days from entry.

Adoption is effective from date of enrollment for final decrees entered before 6/1/47, or decrees entered in proceedings pending before such date.

Massachusetts (2)

There is one decree; adoption is effective from date of decree.

Michigan (3)

There is an interlocutory order, to be followed after 1 year by final decree. Court may waive 1-year period.

Adoption is effective from final decree.

Minnesota (3)

There is one decree; adoption is effective from date of decree.

Mississippi (3)

There is one decree before 7/1/55. On and after that date the court may enter a final decree or, at its discretion, enter an interlocutory decree with a final decree to be entered not earlier than 6 months from the date of interlocutory decree. Final decree may be entered earlier in cases.

Adoption is effective from date of final decree.

Missouri (3)

There is one decree; adoption is effective from date of decree.

Montana (3)

There is one decree before 7/1/57. After 6/30/57, interlocutory decree is to be followed after 6 months by final decree. Court may waive 6-month period.

Adoption is effective from date of final decree.

Nebraska (3)

There is one decree; adoption is effective from date of decree.

Nevada (3)

There is one decree; adoption is effective from date of decree.

New Hampshire (3)

On or after August 21, 1973, there is an interlocutory decree to be followed by final decree after the child has lived with the adopting parents for six months. The court may extend the interlocutory period. It may also waive the interlocutory decree where the petitioner or the petitioner's spouse is a natural parent of child.

Adoption is effective from the date of the final order completing adoption.

New Jersey (3)

There is one decree; adoption is effective from date of decree.

New Mexico (3)

There is one decree; adoption is effective from date of decree.

New York (3)

There is one decree; adoption is effective from date of decree.

North Carolina (3)

Where proceedings were begun before 3/11/49, interlocutory decree is to be followed after at least 1 year, but not more than 2 years, by final decree. Adoption is effective for termination purposes from date of final decree. Adoption is effective for entitlement purposes from date of petition to adopt (i.e., final decree when granted is retroactive to date petition filed with court.)

Where proceedings are begun after 3/10/49, interlocutory decree is to be followed by final decree within 3 years of filing petition. When child is blood grandchild, nephew, niece, or stepchild, court may waive interlocutory decree. Adoption is effective from date of final decree.

When proceedings are begun after 3/29/53, court may also waive interlocutory decree if child is at least 16 years of age and has resided in home of petitioners for 5 years prior to filing of petition, and child consents to adoption. Adoption is effective from date of final decree.

North Dakota (2)

After June 30, 1971, the court may issue a final decree of adoption or an interlocutory decree of adoption to become final in not less than 6 months or more than 1 year. The adoption is effective from the date of the final decree of adoption or from the date of the interlocutory decree of adoption if the interlocutory decree has not been vacated, amended, or appealed.

Prior to July 1971, there was one decree and the adoption was effective from the date of the decree.

Ohio (2)

There is an interlocutory decree to be followed after 6 months by final decree. Interlocutory decree may be waived in certain specified cases.

Adoption is effective from date of interlocutory decree, or final decree if interlocutory decree has been waived.

Oklahoma (3)

There is one decree before 8/28/57. On and after that date there is an interlocutory decree to be followed after 6 months by final decree. Court has discretion to omit interlocutory decree and enter final decree immediately.

Adoption is effective from date of final decree.

Oregon (3)

There is one decree; adoption is effective from date of decree.

Pennsylvania (3)

There is one decree; adoption is effective from date of decree.

Puerto Rico (2)

If adoption occurred before 5/6/48, submit to regional attorney through channels. On or after 5/6/48, there is one decree; adoption is effective from date decree is signed by judge of court of issue.

Rhode Island (3)

There is one decree; adoption is effective from date of decree.

South Carolina (1)

There is one decree if proceedings commenced on or before 2/3/64. After 2/3/64 there is an interlocutory decree to be followed by final decree after child has lived with adopting parents for 6 months. Court, however, may waive interlocutory decree and 6-month waiting period where child is related by blood to one of petitioners, is a stepchild of petitioner, or court is satisfied that adoption is for child's best interest.

Adoption is effective from date of final decree.

South Dakota (2)

There is one decree; adoption is effective from date of decree.

Tennessee (2)

Prior to 4/11/49, there is one decree, which may limit rights of child. After 4/10/49, and prior to 3/16/51, there is one decree. After 3/15/51, there is an interlocutory decree to be followed by final decree after 1 year. Final decree may be entered earlier in certain cases. Interlocutory related by blood to one of petitioners, is a stepchild of petitioner, or court is satisfied that adoption is for child's best interest.

Adoption is effective from date of final decree.

South Dakota (2)

There is one decree; adoption is effective from date of decree.

Tennessee (2)

Prior to 4/11/49, there is one decree, which may limit rights of child. After 4/10/49, and prior to 3/16/51, there is one decree. After 3/15/51, there is an interlocutory decree to be followed by final decree after 1 year. Final decree may be entered earlier in certain cases. Interlocutor decree may be waived where child is by blood, a grandchild, nephew, or niece, or is a stepchild of one of the petitioners.

Prior to 4/11/49, adoption is effective from date of decree if there is no limitation. If limitation is made, forward to the adjudication unit for submission to DGC. After 4/10/49 adoption is effective from date of final decree.

Texas (2)

There is one decree; adoption is effective from date of decree.

Utah (3)

There is one decree; adoption is effective from date of decree.

Vermont (3)

There is one decree approving the adoption, which is appended to an instrument of adoption executed by the parties.

Adoption is effective from date of decree.

Virginia (2)

There is an interlocutory decree to be followed by final decree. Interlocutory decree may be waived and court may grant final decree upon first hearing.

Adoption is effective from date of interlocutory decree or, if omitted from date of final decree.

Virgin Islands (1)

There is one decree; adoption is effective from date of decree.

Washington (3)

There is one decree, which remains to a limited extent interlocutory for 6 months. Adoption is effective from date of decree.

West Virginia (2)

There is one decree; adoption is effective from date of decree.

Wisconsin (3)

There is one decree; adoption is effective from date of decree.

Wyoming (3)

Prior to 5/17/63, there is one decree. After 5/16/63, there is an interlocutory decree to be followed by a final decree after child has live with adopting parents for 6 months. If the child has lived with petitioners for a period of 6 months, the court may waive the entry of the interlocutory decree and forthwith grant a final decree of adoption where the child is related by blood to one of the petitioners, is a stepchild of the petitioner, or if the court finds that the best interests of the child will be furthered thereby.

Adoption is effective from date of final decree.

Appendix J - Void Marriage Statutes

1. True Void Marriage Statutes

A true void marriage statute gives the child of a void marriage legitimate status without court action. The States listed in sec. D4 have adopted such statutes.

Generally, a child of an attempted marriage contracted in good faith by at least one of the parties is deemed to be in legitimate child of both parents. An attempted marriage may include attempted common-law marriages even if common-law marriage is not recognized under applicable State law. An attempted common-law marriage also includes a marriage which is invalid because an impediment exists to a valid common-law marriage. Exceptions to these general statements are noted in D4.

2. Statutes Legitimizing Children Of Marriages Decreed Void

Some States which have not adopted true void marriages statutes have laws providing that a child of a marriage declared void by judicial decree is or may be decreed legitimate. These States are listed in sec. D5.

In some of these States, the laws have been interpreted to mean that the child of a void marriage may be considered legitimate even though no judicial decree of legitimation was obtained.

3. Determining Which State Law Is Applicable

The status of a child is determined by applying the law which would be applied by the courts of the State in which the employee was domiciled at his death or, if living, at the time the child's application is filed by applying the law of the State as if the court was deciding the distribution of his personal property in the event that he died without leaving a will.

Sometimes an employee, at his death or when the child's application is filed, is domiciled in a different State than the one in which he was domiciled at the time of the child's birth. In these cases, usually the courts of the State of a person's domicile, in applying laws of inheritance, will look to the law of the State in which he was domiciled at the time of the child's birth to determine the child's status. (See [Appendix E of RCM Chapter 4.4](#), or Appendix K of FOM Part I, Article 9)

Thus, a child may still be considered legitimate even if the State in which the employee is domiciled at death or when the child applies for benefits is not one of those listed under sec. D4, or if listed, has a requirement such as "ceremonial marriage" or "good faith" which prevents a child from being considered legitimate in that State. The child may qualify as legitimate under the laws of the State of his father's domicile at the child's birth, or he may have been legitimated in a State in which the employee had subsequently been domiciled. By referring to the entries or the appropriate States in [Appendix E of RCM chapter 4.4](#), or Appendix K of FOM Part I, Article 9 and in this appendix, you will, in most cases, be able to determine whether a child is legitimate in the State of the father's domicile at the child's birth or has been legitimated in some State of domicile other than the State of the employee's last domicile. A child found to be legitimate in accordance with the foregoing will usually be recognized as legitimate in all States and able to inherit from the father as a child. Where the child's status cannot be determined, the case will be submitted to the BOC.

4. States That Have Adopted True Void Marriage Statutes

- | | | |
|---------|---|----------------------------------|
| Alabama | - | incestuous marriages only. |
| Arizona | - | if child was born after 3/17/21. |

Arkansas	-	good faith need not be shown if marriage was ceremonial. Good faith by at least one party must be shown if marriage was common-law.
California	-	good faith need not be shown if the marriage was ceremonial. Good faith by at least one party must be shown if marriage was common-law.
Colorado	-	applies only to child of father alive on 7/1/57. Good faith need not be shown if marriage was ceremonial. Good faith by at least one party must be shown if marriage was common-law.
Connecticut	-	applies to child or father alive on 10/1/63, if marriage was ceremonial. If father died before 10/1/63, or if nonceremonial marriage alleged, submit to DGC.
Delaware		
District of Columbia	-	legitimate child only of parent capable of contracting a valid marriage.
Georgia	-	good faith need not be shown if marriage was ceremonial. Good faith by at least one party must be shown if marriage was common-law.
Hawaii	-	ceremonial marriage only.
Idaho		
Illinois	-	ceremonial marriage only.
Indiana		
Kansas		
Kentucky	-	incestuous marriages only.
Maryland	-	ceremonial marriages only.
Michigan	-	except bigamous marriage prior to November 2, 1967. Beginning November 2, 1967, unqualified "True Void Marriage Statute" applicable.
Minnesota		
Mississippi	-	applies to children conceived after bigamous ceremonial or common-law marriages entered into before 4/5/56, and to

children conceived after bigamous ceremonial marriages entered into on, or after, the date, but does not apply if parent died before 7/16/62.

Missouri

Montana

Nevada

New Jersey - ceremonial marriage only. Good faith need not be shown on part of either parent.

North Carolina - ceremonial marriage only. Applies only to child of father alive on 7/1/51.

North Dakota - if at least one parent did not contract marriage in good faith, or if common-law marriage is alleged, submit to DGC.

Ohio - good faith need not be shown on part of either parent if marriage was ceremonial. If common-law marriage is alleged, good faith on the part of at least one parent must be shown.

Oklahoma

Oregon - Submit to DGC.

Pennsylvania - if void marriage entered into prior to 12/17/59, void marriage statute applies only if the party to whom the relationship is claimed is alive on that date. Good faith need not be shown if marriage was ceremonial. If common-law marriage is alleged, good faith on the part of at least one parent must be shown.

Rhode Island - applies to all void marriages, whether ceremonial or common-law, if at least one of the parties acts in good faith in contracting the marriage and the child was born before the marriage was judicially annulled. If neither party contracted the marriage in good faith or the child was born after the marriage was judicially annulled, submit to DGC.

Unless the marriage is void because it was contracted between persons related within prohibited degrees of consanguinity and affinity; this provision is a change of position, effective 12/10/68. Claims previously disallowed

because the void marriage in question was not contracted by such related persons may be reopened as permitted in change of position cases. Otherwise, entitlement may be based only on a new application.

- South Carolina - child born on or after 4/13/51, of a bigamous marriage contracted on or after that date is deemed legitimate if either parent is contracted such marriage in good faith and in ignorance of incapacity of other party.
- South Dakota
- Tennessee - ceremonial marriage only; good faith need not be shown.
- Texas
- Utah
- Virginia
- Washington - alleged marriage, whether ceremonial or nonceremonial, must be of record. Good faith need not be shown.
- West Virginia - except bigamous common-law marriage.
- Wisconsin - good faith need not be shown on the part of either party to a ceremonial marriage, but good faith on the part of at least one party must be shown where common-law marriage is alleged.

5. States In Which A Child Of A Marriage Declared Void By Judicial Decree Is Or May Be Decreed Legitimate

Except for New York, submit cases involving application of the statutes of these States to the DGC for determination as to whether the child may be considered legitimate for annuity purposes.

Iowa

Maine

Massachusetts

New Mexico

- New York - Unless State court prior to 4-17-61, has found child to be illegitimate, child born of a void ceremonial marriage is

deemed to be legitimate child of either parent. Good faith or competence to marry on the part of either party need not be shown. If common-law marriage is alleged, child born of such "void marriage" may be considered legitimate child of either parent if at least one of the parents entered into the purported marriage in good faith.

Vermont

Wyoming

Appendix L - Minimum Age For Marriage Without Parental Consent

State	Age of Males	Age of Females	Effective Date
Alabama	21	18	-----
Alaska	21	18	917-present
Arizona	21	18	-----
Arkansas	21	18	
California	21	18	7-29-21-present
	18	15	through 7-28-21
Colorado	21	18	-----
Connecticut	--	--	law not specific
Delaware	21	18	-----
District of Columbia	21	18	1901-present
Florida	21	21	-----
Georgia	17	18	-----
Hawaii	20	18	6-6-69-present
	20	20	1929-6-5-69
	20	18	through 1928
Idaho	18	18	-----

Illinois	21	18	-----
Indiana	21	18	-----
Iowa	21	18	-----
Kansas	21	18	1905-present
Kentucky	21	21	-----
Louisiana	21	21	-----
Maine	21	18	-----
Maryland	21	18	1920-present
	21	16	through 1919
Massachusetts	21	18	-----
Michigan	18	18	-----
Minnesota	21	18	-----
Mississippi	--	--	no requisite age from 7-1-58-present
	21	18	through 6-30-58
Missouri	21	18	-----
Montana	21	18	-----
Nebraska	21	21	1921-present
	21	18	through 1920
Nevada	21	18	-----
New Hampshire	20	18	1923-present
	18	16	1907-1922
New Jersey	21	18	-----
New Mexico	21	18	-----
New York	18	18	9-1-74-present

	21	18	1907-8-31-74
North Carolina	18	18	-----
North Dakota	21	18	-----
Ohio	18	18	1974-present
	21	21	1923-1973
	21	18	through 1922
Oklahoma	21	18	-----
Oregon	21	18	-----
Pennsylvania	21	21	-----
Rhode Island	--	--	law not specific
South Carolina	18	18	1911-present
South Dakota	21	18	-----
Tennessee	16	16	1937 to present
	18	18	1919-1936
	16	16	through 1918
Texas	21	18	-----
Utah	21	18	-----
Vermont	21	18	-----
Virginia	21	21	-----
Washington	21	18	-----
West Virginia	21	21	-----
Wisconsin	21	18	-----
Wyoming	--	--	law not specific
Puerto Rico	21	21	-----

NOTE: There is no provision for consent by parents and the age referred to is the minimum marriageable age fixed by statute in the following States:

- Georgia
- Michigan
- South Carolina
- Tennessee (for 1919-1936 and 1937-present records).

Appendix M Summary of State Laws on Divorce and Remarriage

Appendix_M:

The following is a summary of State laws regarding divorce and remarriage.

Alabama

A final decree of divorce ends the marriage relationship as of the date of the decree. The remarriage of either party to the divorce to a third person is prohibited for 60 days following the decree. A divorce decree may also indicate whether the guilty party may ever remarry. However, if there is no such prohibition in the decree against the defendant's remarriage, any marriage of the defendant after 60 days following the decree is valid. A marriage contracted in Alabama before the end of the 60-day prohibited period or in violation of the prohibition against remarriage would be held to be void in Alabama. However, Alabama would hold to be valid a marriage entered into in another State within the 60-day period or contrary to the prohibition against the remarriage of the guilty party if the marriage met all statutory requirements of that second State and if the parties had not gone outside Alabama for the marriage in order to evade its prohibitions against remarriage. A marriage entered into in another State in contravention of the restrictions imposed by Alabama would be recognized as valid in other States, since such restrictions have no extraterritorial effect. for validity of remarriage in States which have adopted the Uniform Marriage Evasion Act.)

Alaska

There are no restrictions against remarriage following a divorce decree.

American Samoa

A divorce decree is final on rendition and there are no restrictions on remarriage.

Arizona

Prior to 7/23/66, divorced persons were prohibited from remarrying within 1 year of the decree of divorce. However, a marriage contracted during the prohibited period is not void. Such a marriage contracted in Arizona is voidable. However, a remarriage entered into in another State during the prohibited period would be recognized as valid in Arizona and in other States.

After 7/22/66, there are no restrictions against remarriage following a divorce decree.

Arkansas

Prior to 7/1/79, a divorce decree was effective from the date it was announced in “open court”.

After 6/30/79, a divorce decree is final only after **both** a docket entry and a final decree have been entered. A divorce decree rendered during vacation of court does not become effective until entered on record.

There are no restrictions against remarriage following a divorce decree.

California

Prior to 9/17/65, an interlocutory decree was first entered and at the expiration of 1 year (if there had been no appeal motion for the new trial or reversal of the interlocutory decree) a final decree could be entered.

From 9/17/65, through 12/31/69, (and for actions in which judgment was entered or a new trial granted between these dates) a final decree could be entered immediately after the interlocutory decree if 1 year had expired from the date of service of summons and complaint on the defendant spouse. A final decree of divorce severed the marital relationship and permitted either party to remarry. There was no waiting period after the entry of the final decree.

A marriage contracted with a third party after the interlocutory decree but before the final decree is void whether contracted in California or in another jurisdiction because the parties are not divorced until the entry of the final decree.

Since 1/1/70, (and for actions filed before that date with respect to issues as to which no interlocutory decree or judgment had been entered by that date) a final judgment dissolving the marriage may be entered, upon the motion of either party or the court, 6 months after the date of service of summons and complaint or appearance of the respondent. Such final judgment restores each party to the status of a single person and after its entry either may marry.

Colorado

Prior to 7/58, an interlocutory decree was first entered followed by a final decree after a lapse of 6 months. An interlocutory decree automatically became final 6 months after the entry of the interlocutory decree. During this 6-month period the parties were not

capable of contracting a valid marriage in Colorado or in any other State, and no jurisdiction would recognize a marriage contracted within such period.

After 6/58, a decree of divorce rendered pursuant to suit filed after 6/58 is final when entered, and there is no restriction against remarriage to the parties thereafter.

Connecticut

A divorce decree is final immediately and there is no restriction against remarriage.

Delaware

Prior to 6/8/49, a statute provided for the entry of a decree nisi which became absolute at the expiration of 1 year, unless appealed from, or unless proceedings for review were pending, or unless the court before the expiration of the period otherwise ordered. The divorce did not become final until the entry of the final decree at the expiration of the 1-year period upon the plaintiff's application to the court. A remarriage entered into in Delaware or in any other State before the entry of the final decree would be held to be void by the courts of Delaware and of all other States.

From 6/8/49 through 7/4/74, a decree nisi became final after the expiration of 3 months from the date of entry upon application of the plaintiff for a decree absolute. During the 3-month period a remarriage contracted in Delaware or in any other State would be held to be void in Delaware and in all other jurisdictions.

After 7/4/74, a decree granting a petition for divorce is final when entered, subject to the right of appeal. However, an appeal, which must be filed within 30 days of judgment from a decree granting a divorce that does not challenge the finding that the marriage is irretrievably broken, does not delay the finality of the decree, and thus allows either of the parties to remarry pending appeal.

District of Columbia

From 8/7/35 through 9/28/65, a decree of divorce did not take effect until the expiration of 6 months after its date, or, if later, the final disposition of an appeal therefrom. Since the marriage relationship continued during that period, a remarriage entered into in that period is void in all jurisdictions, whether entered into in or out of the District of Columbia.

Beginning 9/29/65, a decree of divorce does not take effect until the time for noting an appeal has expired or, if such notice of appeal has been entered, the date of final disposition of the appeal. Prior to 7/29/70, notice of appeal must have been filed within 10 days from the date of the decree. Beginning 7/29/70, the appeal period is 30 days with provision for an additional 30 days upon a showing of excusable neglect. However, if no appeal is noted during the 60-day period, the divorce is effective after the 30-day period. Since the marriage relationship continues until the decree becomes effective, a remarriage entered into prior to that time is void in all jurisdictions, whether entered into in or out of the District of Columbia.

Florida

There are no restrictions against remarriage following a divorce decree.

Georgia

Prior to 1946, a total divorce granted the plaintiff in a divorce action would not free the defendant to remarry unless a final jury verdict authorizing the divorce specifically removed the defendant's disability to remarry.

From 1/28/46 to 3/17/60, a party to a Georgia divorce could not remarry during the lifetime of the former spouse unless (1) divorce was granted to such party, or (2) the divorce decree expressly authorized such person to remarry or such party's disability was removed by a jury in a court action brought for that purpose subsequent to the divorce. Remarriage in Georgia in violation of a prohibition is void; however, the prohibition has no extraterritorial effect. A remarriage in another jurisdiction in violation of the prohibition, valid under the law of that jurisdiction, will be recognized as valid by the courts of Georgia in the absence of evidence of lack of good faith revealing that the parties went to the other State for the purpose of evading the Georgia prohibition. If the parties, being residents of Georgia, remarried in another State for the purpose of evading the Georgia prohibition and with the intent of continuing to reside in Georgia, such remarriage would be held void by the courts of Georgia even though valid in the State where contracted.

From 1/27/46 to 3/6/56, in addition to the foregoing, divorces granted during this period did not terminate the marriage until 30 days after the decree; consequently, remarriages during the 30-day period were bigamous regardless of where contracted. After 3/5/56, divorces became effective upon rendition of the decree.

From 3/17/60 through 4/3/79, both parties have the right to remarry unless there is in the pleading a special prayer that the other party be placed under a disability and that party is placed under a disability by the jury or the judge.

Prior to 4/4/79, by statute, a defendant left under a disability may subsequently file an action requesting removal of the disability in the same court wherein the divorce was granted. The party has the right to remarry if the disability is removed.

Beginning 4/4/79, by statute, a divorce decree cannot be rendered that would place either party under a disability to remarry.

Guam

An interlocutory decree is first entered and at the expiration of 1 year if there has been no appeal, motion for a new trial or reversal of the interlocutory decree, a final decree is entered upon motion of either party or the court which severs the marital relationship and permits either to remarry. There is no waiting period after the entry of the final decree.

A marriage contracted with a third party after the interlocutory decree but before entry of a final decree is void, whether contracted in Guam or in another jurisdiction, because the parties are not divorced until the entry of the final decree.

Hawaii

Prior to 5/8/65, all divorce decrees became final within a month at a time fixed by the judge and the marriage was not terminated until the date fixed. A remarriage contracted before that time in Hawaii or elsewhere would be held to be void by the courts of Hawaii and for all other jurisdictions.

Except as provided below, after 5/7/65, a divorce decree becomes final at a date fixed by the court in the decree, but not more than 1 month from and after the date of the decree.

From 5/8/65 through 5/14/67, an interlocutory decree was entered if there was a minor child of the marriage living or in posse. When 1 year had expired after the entry of the interlocutory decree and no reconciliation between the parties had been effected, a final decree dissolving the marriage was entered by the court on its own motion or on the motion of either party. However, where all the children of the parties or any one of them reached majority, got married or were otherwise emancipated, or on the death of all the minor children or on the death of either party within 1 year after the entry of the interlocutory decree, the court entered the final decree effective as of the date of such event.

From 5/15/67 through 6/2/69, the court entered an interlocutory decree if there was a child of the parties under 18 or *in posse*. Such interlocutory decree was effective from and after such time as was fixed by the court in the decree. This was not earlier than the date of final hearing or later than one month after the date of the decree. When 1 year had expired after the date of the interlocutory decree and no reconciliation between the parties had been effected, a final decree dissolving the marriage was entered by the court on its own motion or on the motion of either party. However, when all of the children of the parties either attained age 18, got married, were otherwise emancipated or were adopted or died, or upon the death of either party within 1 year of the date of interlocutory decree, the court upon motion and proof of the facts entered the final decree effective as of the date of the event. If the parties were separated for more than 1 year under a decree of separation or of separate maintenance, the court did not enter an interlocutory decree.

After 6/2/69, the rules remain the same as in the preceding paragraph except that the period between the interlocutory decree and the final decree (referred to in the fourth sentence) and the period referred to in the last sentence were reduced to 6 months.

Idaho

Prior to 4/29/43, a statute on polygamous marriages provided that a subsequent marriage contracted by any person during the life of a former husband or wife, unless to

that former husband or wife was illegal and void unless the former marriage had been annulled or dissolved more than 6 months. However, the courts have held that such a marriage contracted within Idaho within the 6-month period is voidable only and is valid without a court finding of fact and decree to that effect. A marriage entered into in another State within 6 months of the Idaho decree would be recognized as valid by the courts of Idaho and of all other States.

After 4/28/43, there is no publication against remarriage after a divorce.

Illinois

There are no restrictions against remarriage following a divorce decree.

Indiana

Where a divorce has been granted against a person who received no notice other than publication in a newspaper, such person may have the decree opened within 2 years. The divorce decree in such case would specify that it was unlawful for the party who obtained the divorce to remarry within the 2-year period. A marriage by the party who obtained the divorce, in violation of such prohibition in the divorce decree, or the other party, would be voidable, but not void. If the divorce is not set aside, the remarriage of either party becomes valid after the expiration of the 2-year period. If one of the parties dies within the 2-year period, the remarriage becomes valid as of the date of its inception, provided no property rights of the deceased party are involved. This restriction upon remarriage has no extraterritorial effect. Therefore, a remarriage entered into outside the State of Indiana within 2 years by a party so restricted, or the other party, would be held to be valid by the courts of Indiana and of other States.

There is no restriction upon the remarriage of either party to a divorce in which the summons was personally served on the defendant provided the decree does not specify that the party obtaining the divorce is restricted from remarrying.

Iowa

Prior to 7/1/76, Iowa law provided that neither party to a decree of dissolution of marriage (or divorce) shall remarry within one year from the date of filing of the decree unless permission to do so was granted by the court in such decree. However, a marriage entered into in Iowa within the restricted period without permission of the court is a misdemeanor only and the marriage is merely voidable and not void. A marriage entered into outside of Iowa within the restricted period is valid in the State of remarriage and in Iowa since the restriction has no extraterritorial effect.

After 7/1/76, there are no restrictions against remarriage following a decree of dissolution of marriage.

Kansas

Prior to 1/1/64, it was unlawful for either party to marry another person within 6 months from the date of the decree of the divorce. Any marriage entered into in Kansas in violation of this restriction is void. Likewise, a marriage entered into in another State for the purpose of evading the effect of this provision would also be held to be void by the courts of Kansas, if the parties in the marriage returned to reside in Kansas after the event. In other States, the remarriage outside Kansas would be recognized as valid even if the parties went outside of Kansas to enter into marriage for the express purpose of avoiding the prohibition.

After 12/31/63, but prior to 6/30/65, the period following the date of decree of a Kansas divorce during which the parties thereto are prohibited from remarrying is 30 days. After 6/29/65, but prior to 7/1/75, the period of prohibition is 60 days after the entry of the decree. After 6/30/75, the period of prohibition is 30 days after the entry of the decree.

After 6/29/65, if an appeal is taken, the period of prohibition from remarrying continues until the clerk of the appropriate district court receives the final decision of the Supreme Court of Kansas with respect to the appeal. The validity of a remarriage in violation of this prohibition continues to be the same as above.

Kentucky

Prior to 6/16/66, and after 6/12/68, there was and is only one divorce decree, a final one.

After 6/15/66, and before 6/13/68, the law provided for both an interlocutory and a final decree of divorce. The final judgment of divorce could not be granted before the end of 60 days from the interlocutory decree, and until the final decree was granted, the marriage continued.

There are no restrictions against remarriage following an absolute divorce.

Louisiana

A remarriage prior to 7/29/70, by the female within 10 months of her divorce decree is voidable if contracted in the State of Louisiana, but if entered into in another State, the remarriage would be recognized as valid both by Louisiana and by the other State since the restriction has no extraterritorial effect.

Maine

There are no restrictions against remarriage following a divorce decree.

Maryland

There are no restrictions against remarriage following a divorce decree.

Massachusetts

If entered on or after 3/4/85, the divorce law provides for the granting of a decree nisi which does not become absolute so as to terminate the marriage until after the expiration of 90 days from the entry date unless the court otherwise orders. Decrees nisi entered prior to 3/4/85, did not become absolute so as to terminate the marriage until 6 months from entry unless the court otherwise ordered. During the period between the granting of the decree nisi and the date the decree becomes absolute the parties must remain married. A remarriage entered into during this period is therefore void in all States whether contracted within or outside Massachusetts.

However, by statute, Massachusetts provides that if the remarriage was ceremonial and entered into by one of the parties in good faith and without knowledge of such impediment and the parties continued to cohabit thereafter in Massachusetts as husband and wife after removal of the impediment, the marriage will be recognized as valid beginning at the point in time the impediment is removed.

Prior to 11/15/65, the libelee was prohibited from remarrying for 2 years after the divorce became absolute unless the libelant died earlier. A remarriage in such period is void in Massachusetts; however, if the remarriage was ceremonial and entered into by one of the parties in good faith and without knowledge of such impediment and they continued to cohabit thereafter as husband and wife in Massachusetts, the remarriage is validated upon expiration of the 2-year period.

Where the libelee was a resident of Massachusetts and went to another State to contract a marriage during the prohibited period, upon returning to Massachusetts that marriage is void in Massachusetts as though it had been contracted in Massachusetts. But if the libelee was not a resident of Massachusetts at the time of the remarriage and continued to reside outside of Massachusetts afterward, the marriage would be recognized as valid by Massachusetts.

A remarriage entered into before 11/15/65, in another State by the libelee within 2 years of the entry of the divorce decree would be held to be valid by States other than Massachusetts whether or not Massachusetts might hold it to be void since this restriction had no extraterritorial effect.

After 11/14/65, there is no restriction on remarriage after the decree becomes final. Either party may marry again as if the other were dead. The removal of the 2-year bar against libelee marriages did not validate a purported marriage entered into in violation of the restriction before 11/15/65.

Michigan

In the absence of an express provision in the divorce decree, there is no waiting period following a final divorce during which both parties are prohibited from remarrying. The court can in its discretion specify in the decree that the guilty party shall not marry again within a time fixed by the court, but not to exceed 2 years from the time of the decree. However, a remarriage contracted within the waiting period specified by the court in a divorce decree would not be invalid even if the remarriage was contracted in the State

of Michigan. Unless the judgment or decree of divorce expressly provides otherwise, a divorce judgment or decree is final when rendered.

After 10/10/47, but prior to 8/11/56, in any divorce case involving minor children under the age of 17, an interlocutory decree was first entered and the divorce did not become final until 6 months thereafter, except in a hardship case the court might specify a shorter period. Also, effective 10/1/53, upon the death of either party during the 6-month period, the decree was deemed final as of the date of death unless previously vacated or reversed. The marital relationship was not dissolved until the divorce decree became final. A remarriage before the decree became final, no matter where contracted, would therefore be held to be void by Michigan and by all other States.

Minnesota

Prior to 3/1/79, the law provides for a waiting period of 6 months following the granting of a divorce during which the parties cannot remarry. A remarriage entered into in Minnesota during this 6-month period is merely voidable, however, and not void until and unless set aside. A marriage contracted in another State in violation of this prohibition in the Minnesota statute would nevertheless be valid both in Minnesota and in the other State since the prohibition has no extraterritorial effect.

Effective 3/1/79, there are no restrictions against remarriage following a divorce decree. A divorce decree is now final for all purposes when it is entered. This rule is subject to two exceptions: (1) If it has been contested in the divorce proceedings that the marriage is irretrievably broken (effective 3/1/79, this is the single ground for divorce), neither party may remarry before the time for appeal has expired. The appeal period is ninety days following entry of the decree. If the divorce proceeding is uncontested as to the grounds for divorce, either party may remarry before the time for appeal has expired. (2) If either party appeals the divorce decree on the ground that the other party is not entitled to a divorce, neither party may remarry pending disposition of the appeal. Unless there is evidence in file to the contrary, assume that neither of the exceptions applies and that both parties were free to marry before the expiration of the appeal period. A remarriage entered into in Minnesota during the appeal period or while an appeal is pending is merely voidable and not void until and unless set aside.

Mississippi

There is no period following the entry of a divorce decree during which both parties are prohibited from remarrying, although the decree may provide in the discretion of the court whether or when a party guilty of adultery shall marry again. Forward to the PC for possible submittal to the chief counsel any case in which there is a question as to the validity of a remarriage entered into in Mississippi in violation of such a prohibition.

A marriage entered into outside of Mississippi, by a person prohibited from marrying by a Mississippi divorce decree, would be held to be valid by the courts of another State and also by the courts of Mississippi, unless action had already been taken in Mississippi to declare such remarriage void.

Missouri

There are no restrictions against remarriage following a divorce decree.

Montana

Prior to 7/1/63 and after 1/1/68, there was and is no restriction against remarriage following a divorce decree.

Where a Montana resident or a person who was a party to an action for divorce in a Montana court contracts a marriage after 6/30/63, and prior to 1/2/68, less than 6 months after that person obtained a decree of divorce, such marriage shall be void from the date its nullity is declared by decree of a court of competent jurisdiction. In the absence of such decree, such remarriage contracted within 6 months after a decree of divorce of either party shall not be considered invalid because it was so contracted.

Nebraska

The general rule in Nebraska is that a decree dissolving a marital relationship becomes final and operative thirty days after the decree is entered or on the death of one of the parties to the dissolution, whichever occurs first; or if appealed, upon dissolution of appeal, if later. For the purposes of remarriage, other than remarriage between the parties, a divorce decree becomes final and operative six months after the decree is entered or on the date of death of one of the parties to the dissolution, whichever occurs first. If the decree becomes final and operative upon the date of death of one of the parties of the dissolution, the decree shall be treated as if it became final and operative the date it was entered. For purposes of continuation of health insurance coverage, a decree dissolving a marriage is final and operative six months after the decree is entered.

Prior to September 9, 1995, a divorce decree did not become final until six months after the decree was rendered. During this six-month period, the parties to the dissolution remained legally married. However, Legislative Bill 544 revised this statute to reflect the language of the current law. See Laws 1995, LB 544, § 2. Neb. Rev. St. § 42.372.

Nevada

There are no restrictions against remarriage following a divorce decree.

New Hampshire

There are no restrictions against remarriage following a divorce decree.

New Jersey

Prior to 6/11/69, the statutes provided for the entry of a decree nisi which became final after the expiration of 3 months from the entry thereof unless prior to that time an appeal or proceeding for review had been taken and was pending, or the court had otherwise

ordered. Prior to 9/15/48, a final decree had to be entered after the expiration of the 3-month period upon application of the successful party to the proceedings unless prior to that time there had been such an appeal or other review proceeding or court order. Since a marriage is not dissolved until the final decree is entered, a remarriage prior to that time would be held to be void by the courts of all jurisdictions, no matter where the marriage may have been contracted.

After 6/10/69, if the court after the hearing determines that the plaintiff or claimant is entitled to a judgment of divorce or nullity of marriage, a final judgment is entered which dissolves the marriage. Appeals are taken only from the final judgment.

There is no waiting period after the entry of the final divorce decree during which the parties to the divorce are prohibited from remarrying.

New Mexico

There are no restrictions against remarriage following a divorce decree.

New York

Prior to 9/1/46, in an action for divorce the decision of the court or report of the reference was filed and an interlocutory decree was entered. In some instances, the final judgment was entered automatically after the expiration of 3 months, and in other instances, action had to be taken (usually by the plaintiff) to have judgment entered within 30 days after the end of the 3-month period. If no such final judgment was entered, the marriage was never dissolved.

After 8/31/46, and prior to 6/16/68, the interlocutory decree automatically became final after the expiration of 3 months without the formal entry of judgment unless for cause the court ordered otherwise in the interim.

After 6/15/68, a divorce decree is effective immediately upon entry. An interlocutory decree entered between 3/16/68, and 6/15/68, became final on 6/16/68.

Where the final judgment dissolving a marriage is entered prior to 9/1/67, the innocent party may marry again without restriction, but the party guilty of adultery is prohibited from marrying again during the lifetime of the spouse unless permission of the court is obtained 3 years following the date of the final judgment. A marriage entered into in New York in violation of this prohibition without the court's permission is void. However, a second marriage entered into in a State outside of New York after entry of the final decree even if with the express purpose of evading the New York restriction would be recognized as valid by New York and by other States, since this restriction has no extraterritorial effect.

Prior to 9/1/67, New York also prohibited the party guilty of adultery from remarrying in that State for a period of 3 years following the divorce, even though the divorce was granted in another State. A marriage in New York within 3 years following the divorce was void even though such marriage was not prohibited by the divorce decree or by the

laws of the State in which granted. However, if the marriage was entered into in another State, this provision of New York law had no application.

After 8/31/67 (for benefits payable no earlier than 9/67), there are no restrictions on remarriage, whether the divorce decree was entered prior or subsequent to such date. However, this statute does not validate remarriages entered into prior to 9/1/67.

North Carolina

There are no restrictions against remarriage following a divorce decree.

North Dakota

Neither party may marry except in accordance with the decree of the court granting the divorce. The court granting the divorce is obliged to specify in the decree whether either or both of the parties shall be permitted to marry, and if so, when. The court may modify a restriction in a decree at any time so as to permit one or both of the parties to marry. Should one of the parties to a divorce marry in violation of the restrictions imposed by the court, that remarriage would nevertheless be valid in North Dakota or in any other jurisdiction.

Ohio

There are no restrictions against remarriage following a divorce decree.

Oklahoma

The statute, while prohibiting a marriage of either party to a divorce for 6 months after the rendition of the decree, does not declare such marriage invalid. Any marriage contracted in Oklahoma within 6 months after a divorce decree was granted is valid unless set aside. A marriage entered into outside of Oklahoma within the 6-month period would be held to be voidable by the courts of Oklahoma and valid by the courts of other States as the prohibition has no extraterritorial effect.

Where there is no objection either in the motion for new trial or the petition in error to the granting of the divorce, a divorce decree is final and takes effect as of the date of rendition.

Where the final judgment dissolving a marriage was entered prior to 5/7/69, a divorce decree is considered effective upon the expiration of a six-month period after the date the final judgment was rendered, or in the case of an appeal, after such appeal has been determined.

Oregon

Prior to 8/13/65, the parties to a dissolved marriage were prohibited from remarrying for 6 months after the date of the decree, or if an appeal had been taken, until it was heard

and disposed of, but in no case until the expiration of 6 months from the date of the decree.

A marriage entered into in Oregon or in another State within the 6-month period following a divorce was held to be void by the courts of Oregon (except for the situation noted in the following paragraph). A marriage contracted in violation of such prohibition was valid under the laws of other States since the Oregon divorce decree dissolved the marriage.

Certain marriages entered into within the 6-month period following a divorce decree have been validated periodically by curative legislation. Thus, marriages entered into prior to 2/19/41; 3/24/45; 4/21/47; 4/28/53; 1/1/59; and 1/1/65, have been legislatively declared valid if otherwise legal and regular, irrespective of whether the marriage was entered into in a State other than Oregon. However, these validating statutes have no effect in cases where one or both of the parties died prior to the effective date of the validating statute next succeeding the date of marriage; the respective enactment dates of the above-mentioned statutes being 6/14/41; 6/16/45; 7/5/47; 7/21/53; 4/14/59; and 5/14/65.

Under the 1965 amendments to the Oregon Divorce Law, the 6-month period during which the parties are prohibited from remarrying following a divorce granted before 8/3/65, is reduced to 60 days. Where the marriage occurred within 60 days of a divorce granted on or after 8/13/65, and the action was filed before 8/13/65, forward the case to the PC for possible submittal to the chief counsel.

Where an Oregon divorce is based upon a divorce action filed after 8/13/65, and before 8/1/81, the marital status of the parties is not affected until 60 days from the date of the decree or, if an appeal is taken, until the suit is determined on appeal, whichever is later. However, where either party dies within the 60-day period, the marriage relationship is terminated immediately before such death. Forward to the PC for possible submittal to the chief counsel any case in which there is a question whether another jurisdiction would give effect to the termination provision where one party died within 60 days of the divorce decree.

Certain marriages entered into before the expiration of 60 days from the date of a decree declaring a previous marriage of one or both of the contracting parties void or dissolved also have been validated periodically by curative legislation. Marriages contracted prior to 1/1/71; 1/1/73; and 7/31/81, which are in all other respects legal and regular, have been declared valid.

Effective 8/1/81, the waiting period during which the parties are prohibited from remarrying following a divorce is further reduced to 30 days.

Where the marriage occurred within 30 days of a divorce granted on or after 8/1/81, and the action was filed before 8/1/81, forward the case to the PC for possible submittal to the chief counsel.

Where an Oregon divorce is based upon a divorce action filed on or after 8/1/81, the marital status of the parties is not affected until 30 days from the date of the decree or, if an appeal is taken, until the suit is determined on appeal, whichever is later. However, where either party dies within the 30-day period, the marriage relationship is terminated immediately before the date of the death.

Effective 10/23/99, a marriage relationship is terminated when the court signs the judgment of dissolution of marriage.

Pennsylvania

Prior to 4/2/80, the defendant in a divorce granted in Pennsylvania who had been guilty of adultery could not marry the co-respondent during the lifetime of his/her former spouse. A marriage in Pennsylvania in violation of this prohibition was void if the identity of this co-respondent appeared in the record or in the evidence of the divorce. Such a marriage was also void if entered into in another State for the purpose of evading the restriction. However, Pennsylvania would recognize as valid a marriage entered into in good faith in another State if the party who remarried had established a domicile in the other State.

A marriage entered into in another State in violation of the prohibition in a Pennsylvania divorce decree would, following the general rule, be recognized as valid by the courts of States other than Pennsylvania, without regard to whether or not the parties left Pennsylvania for the marriage in order to evade the effect of the Pennsylvania statute.

Effective 4/2/80, the provision restricting remarriage in a divorce granted for adultery was repealed. Thus, any remarriage entered into in Pennsylvania (regardless of when the prior divorce was granted or when the remarriage took place) that was in violation of this provision is considered a valid, legal marriage.

Puerto Rico

The divorce laws do not impose any restrictions on remarriage after divorce. However, the marriage laws prohibit the parties to an adultery who have been convicted by final judgment from marrying each other for 5 years after such judgment.

Prior to 6/2/76, the marriage law provided that the following persons (among others not divorced) are incapacitated to contract marriage: a woman whose marriage had been declared null or had been dissolved within a period of 301 days from the date of nullity or dissolution.

When a marriage had been contracted by an individual incapacitated under this statute, the Puerto Rican Code stated that the marriage was null and void. However, the courts of Puerto Rico have held that a marriage entered into by a woman within 301 days of her divorce is at the most voidable; and where the question did not arise until after the expiration of the 301-day period, and it could be shown that no child was born during that period, the marriage would be held to be valid.

A marriage entered into in Puerto Rico in violation of the prohibition against the marriage of the parties to an adultery would not be void unless at least one of the parties had been convicted of adultery and the other party sufficiently identified at that proceeding.

No cases requiring a determination as to the validity of a marriage entered into outside Puerto Rico in contravention of these restrictions have come to our attention. However, following the general rule that such prohibitions have no extraterritorial effect, it may be presumed that such a marriage entered into outside of Puerto Rico would be held to be valid by the courts of Puerto Rico and of other States.

Effective 6/2/76, a woman seeking to remarry during the 301-day period (the date of nullity or dissolution of the prior marriage to the date of the present marriage) must present a form to an authorized person stating whether or not she is pregnant. A marriage performed in contravention of this requirement is voidable.

Rhode Island

Prior to 6/5/76, a divorce decree did not become final by operation of statute but only upon entry of the final decree upon the expiration of at least 6 months after the trial and decision. A remarriage in Rhode Island or in any other jurisdiction during that 6 months, is void in all States because the parties to the divorce are still husband and wife. There is no period following the final decree during which the parties are prohibited from remarrying.

After 6/4/76, a divorce decree does not become final by operation of statute but only upon entry of final decree upon the expiration of at least 3 months after the trial and decision. A remarriage in Rhode Island or any other jurisdiction during that 3 months is void in all States because the parties to the divorce are still husband and wife. There is no period following the final decree during which the parties are prohibited from remarrying.

South Carolina

Prior to 4/15/49, the constitution prohibited the granting of absolute divorces.

After 4/14/49, a final divorce decree terminates the marriage; there is no interlocutory decree and no period during which the parties to the divorce are prohibited from remarrying.

South Dakota

The party guilty of adultery cannot marry any person except the former spouse until the death of such spouse. A marriage in South Dakota in violation of such restriction would be held valid but voidable in South Dakota. A marriage entered into in a State outside of South Dakota would be recognized as valid by South Dakota and by other States.

Tennessee

Prior to 1/30/70, the defendant in a divorce action who had been guilty of adultery could not marry the person with whom he/she had committed adultery during the lifetime of the former spouse. A marriage in Tennessee or in another State by a person so prohibited from remarrying would be held to be void by the courts of Tennessee. This restriction had no extraterritorial effect; therefore, a marriage entered into in a State outside of Tennessee in violation of such prohibition would be considered valid by other States.

After 1/29/70, there are no restrictions against remarriage. Generally, a divorce decree does not become effective until it is recorded in the minutes of the court.

Texas

Prior to 1/1/70, where a divorce was granted upon the ground of cruel treatment, neither party could marry another person for a period of 12 months.

A marriage in Texas in violation of this prohibition was voidable. A marriage entered into outside the State of Texas during the 12-month period would be recognized as valid by the courts of Texas and of other States.

After 12/31/69, neither party to a divorce may marry a third party for a period of 6 months following the date the divorce is decreed. However, this prohibition may be waived by the court granting the divorce for good cause shown either at the time of the divorce decree or thereafter as to either or both of the parties. The divorced parties may marry each other at any time. A marriage to a third party in Texas within the 6-month prohibited period is voidable.

Effective 1/1/74, if either party to a divorce marries a third party within the 30-day period immediately following the date the divorce is decreed, such a marriage is voidable and subject to annulment on the suit of a party to the marriage if the suit is brought within one year from the date of the marriage. However, the parties divorced may marry each other at any time.

Utah

Prior to 5/13/69, a statute provides that a decree of divorce shall become absolute and terminate a marriage at the expiration of 6 months (3 months if decree granted after 5/13/57) from the date of entry; if an appeal is taken, the marriage terminates when the decree is affirmed. A remarriage anywhere within such periods is void in Utah and all other States.

After 5/12/69, a statute permits a decree of divorce to become absolute immediately upon the date of entry, or to continue interlocutory until a waiting period as long as 6 months from the signing and entry of the decree has elapsed, in the discretion of the court for good cause shown.

Vermont

Prior to 4/8/70, the guilty party in a divorce action was prohibited from marrying anyone except the former spouse for a period of 2 years after the divorce decree became final, unless the spouse died before that time. A marriage in Vermont within the waiting period (depending upon when the divorce was granted) is void. A marriage entered into in another State by a person under such restriction would be held to be valid by the courts of other States and also of Vermont. If, however, the marriage was entered into in another State by residents of Vermont for the purpose of evading the restriction, Vermont would hold such a marriage to be void.

On or after 4/8/70, it is provided that in a suit for divorce, a decree nisi is first entered which does not become final until 3 months from its entry, although the court which grants the decree may fix an earlier date upon which it may become absolute. A remarriage any time within 3 months of the decree nisi (unless the court sets a shorter date) would be held to be void in all jurisdictions since the marriage has not been dissolved.

On or after 4/8/70, there is no restriction against remarriage following a divorce decree which has become final (whether rendered before, on, or after 4/8/70). Where remarriage occurred prior to 4/8/70, and both parties thereto did not survive until that date, validity of remarriage must be determined under former law. If remarriage occurred before 4/8/70, and both parties survived until said date, forward the case to the PC for possible submittal to the chief counsel.

Virginia

Prior to 1/13/20, the only restriction in the divorce law which prohibited either party to a divorce granted for a cause arising subsequent to the date of the marriage from remarrying was that the court in the decree could impose on the guilty party a prohibition against remarriage during the life of the other party. If such a party entered into a subsequent marriage in Virginia without having that part of the divorce decree revoked, the marriage would be void. In case of a remarriage entered into in another State, the prohibition would have no extraterritorial effect and would be valid in the other State and in Virginia. However, Virginia would deem the remarriage void if the guilty party left Virginia for the purpose of remarrying in violation of the decree, and intended to return and subsequently did return to Virginia.

After 1/12/20, the restrictions against the remarriage of the party guilty of adultery remained in the law and a provision was added that upon the rendition of a divorce decree neither party shall be permitted to remarry for 6 months (4 months effective 6/24/44) from the date of the decree. A remarriage by one party to another person, entered into in Virginia or elsewhere within the 6 months (or 4 months) prohibited time period while the other party to the divorce was still alive, is void in Virginia and in all other jurisdictions. (Exception: A remarriage entered into outside Virginia within the prohibited time, and which is otherwise valid, would be regarded as valid in New York.)

However, marriages entered into in violation of any prohibition against remarriage in a divorce granted for a cause arising subsequent to marriage, are deemed valid ab initio if

(1) the parties resided together as husband and wife until such time as one of the parties died prior to 7/1/60, or (2) the parties have continued to reside together as husband and wife until 7/1/60. In the case of (1) above, the marriage is validated ab initio effective 6/27/60. In the case of (2) above, the marriage is validated ab initio effective 7/1/60. (This applies where the remarriage occurred in Virginia and the parties were domiciled at all times thereafter in Virginia. In all other cases, submit to the PC for possible submittal to the chief counsel for an opinion as to whether the particular marriage would be considered validated.)

After 6/26/60, there is only a final decree which becomes effective when granted unless the court decrees that neither party shall remarry pending the perfecting of an appeal. Also, the provisions for a court-imposed restriction against the remarriage of a party guilty of adultery continue in effect.

Virgin Islands

The remarriage of the parties to a divorce in this jurisdiction is prohibited until the action is heard and determined on appeal, or if no appeal is made, until the expiration of the appeal time of 30 days. After 1/27/45, a marriage contracted within the prohibited period would be void regardless of where it was celebrated. Forward to the PC for possible submittal to the chief counsel any case in which a remarriage took place prior to expiration of this prohibited period, and before 1/28/45.

Washington

Before 6/8/49, an interlocutory decree was first entered. A final decree of divorce was not entered until the expiration of 6 months from the date of the interlocutory decree upon the motion of either party, or if an appeal was taken, not until the judgment on that appeal was rendered. A remarriage entered into anywhere before the entry of the final decree or the judgment on appeal was void in all jurisdictions, since during such time the prior marriage was still in existence. There was no waiting period after the entry of final decree or judgment on appeal.

After 6/7/49, there is only a final decree of divorce which becomes effective when granted unless an interlocutory decree was entered on or before 6/8/49.

West Virginia

Before 4/1/69, both parties to a divorce suit were prohibited from remarrying within 60 days from the date of a decree of divorce. In addition, the court might further prohibit the guilty party from remarrying within 1 year. A remarriage entered into in West Virginia in violation of these prohibitions is void. A marriage entered into in another State in contravention of the prohibitions would be valid under the laws of other States, but if the validity of such a marriage is subsequently questioned in the courts of West Virginia, its courts will refuse to recognize it on the grounds that such recognition would be contrary to the public policy of West Virginia.

After 3/31/69, there is no restriction upon remarriage as to either party after divorce.

Wisconsin

Before 4/12/72, a divorce became final one year after it was granted. The date of the granting of the decree, usually the date of the trial, commenced the running of the 1-year period which must elapse before the divorce became final. A remarriage in any State prior to the expiration of that 1-year is void, because the decree granted has the same effect as a decree nisi and does not sever the marital ties. (If either party dies within the 1-year period indicated above, the marriage is deemed dissolved by final decree immediately before such death.) (See last paragraph of entry for change of position.)

After 4/11/72, and before 2/1/78, the date of the granting of the decree, usually the date of the trial, commenced the running of the 6-month period which must elapse before the divorce became final. This applied to a divorce decree resulting from the service of a summons upon the defendant before 2/1/78. A remarriage in any State prior to the expiration of that 6 months is voidable. (If either party dies within the 6-month period indicated above, the marriage is deemed dissolved by final decree immediately before such death.)

On or after 2/1/78, a divorce decree resulting from the service of a summons upon the defendant is final immediately, except that a 6-month waiting period during which the parties must not marry will be established in each decree. Any marriage in violation of this prohibition is voidable.

All marriages referred to under the former laws as being void are now considered voidable. Any remarriages can become valid if the marriage is entered into by one of the parties in good faith and if the parties continue to live together following the removal of the impediment, i.e., the expiration of the waiting period. This is a change of position effective 12/27/78.

Wyoming

There is no restriction upon remarriage after divorce.

THE UNIFORM MARRIAGE EVASION ACT

The Uniform Marriage Evasion Act, which has two main provisions, has been adopted by the following States:

- Illinois
- Louisiana
- Massachusetts
- Vermont
- Wisconsin

The first provision:

If a resident prohibited from marrying under the law of the State goes to another State for the purpose of avoiding this prohibition and contracts a marriage which would be void within his/her home State, that marriage will be held to be void by the home State, just as if the marriage had been entered into there. (Several States which have not adopted the Uniform Marriage Evasion Act as a whole have adopted this first provision; see summary of State laws in Appendix

The second provision:

Prohibits the marriage within the State of persons residing and intending to continue residing in another State, if the marriage would be void if contracted in the individual's home State. A marriage in violation of this prohibition is void in the State of marriage, just as it would be void in the State of divorce or in the individual's home State. It is also void in all jurisdictions by the general rule that, in determining the validity of a marriage, the courts will look to the law of the jurisdiction where the marriage occurred.

