

1969 Bill 14

Second Session 16th Legislature, 18 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 14

An Act to amend The Marriage

THE MINISTER OF HEALTH

First Reading

Second Reading

Third Reading

Printed by L. S. Wall, Queen's Printer, Edmonton

BILL 14

1969

An Act to amend The Marriage Act

(Assented to , 1969)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Marriage Act* is hereby amended.

2. Section 15 is struck out and the following is substituted:

15. (1) When a previous marriage of an applicant for a licence has been dissolved by a decree of divorce or declared a nullity, an issuer shall not issue a marriage licence

(a) until the 21st day after the date of entry of the final decree or of the order declaring the nullity, and

(b) until the applicant produces to the issuer

(i) a certificate from the clerk of the Supreme Court that no appeal has been entered from the final decree or order declaring the nullity and that the time for appeal has expired, or

(ii) where an appeal has been entered, evidence satisfactory to the issuer that the appeal has been finally disposed of.

(2) Subsection (1) does not apply in the case of a final decree or declaration granted outside the Province, but in such a case the applicant shall produce to the issuer

(a) a certificate of the dissolution or annulment or decree absolute or decree of annulment or a certified notarial copy or photocopy thereof, or

(b) other evidence of the divorce or annulment satisfactory to the Director.

(3) This section does not apply to a divorce, the petition for which was filed after July 1, 1968.

Explanatory Notes

1. This Bill amends chapter 52 of the Statutes of Alberta, 1965.

2. Section 15 presently reads:

15. (1) When a previous marriage of an applicant for a licence has been dissolved by a decree of divorce or declared a nullity, an issuer shall not issue a marriage licence

- (a) until the twenty-first day after the date of entry of the final decree or of the order declaring the nullity, and
- (b) until the applicant furnishes the issuer
 - (i) with a certificate from the clerk of the Supreme Court that no appeal has been entered from the final decree or order declaring the nullity and that the time for appeal has expired, or
 - (ii) where an appeal has been entered, with evidence satisfactory to the issuer that the appeal has been finally disposed of.

(2) Subsection (1) does not apply in the case of a final decree or declaration granted outside the Province, but in such a case the applicant shall furnish the issuer

- (a) with a certificate of the dissolution or annulment or decree absolute or decree of annulment or a certified notarial copy or photocopy thereof, or
- (b) with other evidence of the divorce or annulment satisfactory to the Director.

The amendment to the section makes it clear that the evidence required by the issuer needs only to be produced, not filed.

Apart from this amendment, section 15 is unchanged for all decrees of divorce or nullity prior to July 1, 1968 but after July 1, 1968, because the Divorce Act (Canada) states that there is no appeal from a decree absolute, provision is made in the following section for a marriage licence issuer to issue a licence on production of a decree absolute.

As the Divorce Act (Canada) does not apply to nullity proceedings, no reference is made in subsection (3) to nullity.

3. The following section is added after section 15:

15a. (1) When a previous marriage of an applicant for a licence has been dissolved by a decree of divorce, the petition for which was filed after July 1, 1968 an issuer, upon production by the applicant of the decree absolute of divorce, may issue a marriage licence to him.

(2) Subsection (1) does not apply in the case of a final decree or declaration granted outside the Province, the petition for which was filed after July 1, 1968 but in such a case the applicant shall produce to the issuer

- (a) evidence that the petition for divorce was filed after July 1, 1968, together with a certificate of the dissolution or decree absolute or a certified notarial copy or photocopy thereof, or
- (b) other evidence of the divorce satisfactory to the Director.

4. This Act comes into force on the day upon which it is assented to.

3. This section allows a marriage licence issuer to issue a licence on production of a decree absolute.