

# Illegal Marriages in Virginia



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## Illegal Marriages in Virginia

Certain marriages in Virginia are prohibited by statute.

### Prohibited Marriages

Virginia Code Section 20-38.1 provides:

(a) The following marriages are prohibited:

- (1) A marriage entered into prior to the dissolution of an earlier marriage of one of the parties;
- (2) A marriage between an ancestor and descendant, or between a brother and a sister, whether the relationship is by the half or the whole blood or by adoption;
- (3) A marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood.

The penalty for violating this section is:

If any person marry in violation of Sec. 20-38.1 he shall be confined in jail not exceeding six months, or fined not exceeding \$500, in the discretion of the jury. If any persons, resident in this Commonwealth, and within the degrees of relationship mentioned in that section, shall go out of this Commonwealth for the purpose of being married, and with the intention of returning, and be married out of it, and afterwards return to and reside in it, cohabiting as man and wife, they shall be punished as provided in this section, and the marriage shall be governed by the same law as if

it had been solemnized in this Commonwealth. The fact of such cohabitation here shall be evidence of such marriage. Venue for a violation of this section may be in the county or city where the subsequent marriage occurred or where the parties to the subsequent marriage cohabited.

### **Same Sex Marriages**

Virginia Code Section 20-45.2 provides:

A marriage between persons of the same sex is prohibited. Any marriage entered into by persons of the same sex in another state or jurisdiction shall be void in all respects in Virginia and any contractual rights created by such marriage shall be void and unenforceable.

### **Void Marriages**

Virginia Code Section 20-45.1 establishes that certain marriages are void. These are:

(a) All marriages which are prohibited by Sec. 20-38.1 or where either or both of the parties are, at the time of the solemnization of the marriage, under the age of eighteen, and have not complied with the provisions of Sec. 20-48 or Sec. 20-49, are void.

(b) All marriages solemnized when either of the parties lacked capacity to consent to the marriage at the time the marriage was solemnized, because of mental incapacity or infirmity, shall be void from the time they shall be so declared by a decree of divorce or nullity.

A bigamous marriage does not become valid as a result of the dissolution of the prior marriage.

## **Additional Resources**

[Family Law Website](#)

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