

VOLUME 32

Opinion No. 6

MARRIAGE AND DIVORCE; Marriage, After divorce—MARRIAGE AND DIVORCE; Remarriage, waiting period—STATUTES; Repeal of, effect on prior judgments—Section 48-151, R.C.M. 1947.

HELD: After July 1, 1967, the statutory prohibition against the marriage of divorced persons for six months after their divorce is granted will cease to exist. Persons divorced prior to July 1, 1967, may remarry at any time on or after that date unless the judgment granting the divorce contains an order that the parties are not to remarry for a period of six months after the divorce is granted.

June 21, 1967

Mr. Byron L. Robb
Park County Attorney
Livingston, Montana 59047

Dear Mr. Robb:

You ask what effect the repeal of section 48-151, R.C.M. 1947, by Chapter 63, Laws of 1967, has on the right of persons divorced prior to the effective date of the repealer.

Section 48-151, R.C.M. 1947, provides:

It is unlawful for any person, who is a party to an action for divorce in any court in this state, or for any Montana resident who is a party to an action for divorce elsewhere, to marry again until six months after judgment of divorce is granted, and the marriage of any such person solemnized before the expiration of six months from the date of the granting of judgment of divorce shall be void.

This statute is repealed by Chapter 63, Laws of 1967, which states: "Section 48-151, R.C.M. 1947, is repealed."

Section 43-507, R.C.M. 1947, provides:

Every statute, unless a different time is prescribed therein, takes effect on the first day of July of the year of its passage and approval.

Under this statute, since Chapter 63 contains no effective date, the repeal of section 48-151 will not become effective until July 1, 1967. On that date, section 48-151 will simply cease to exist and there will be no **statutory** prohibition against remarriage of a divorced person at any time after their divorce. For example, a person divorced on June 25, 1967 may remarry on July 1, 1967, as may a person divorced on January 25, 1967; **if the judgment granting the divorce does not contain a requirement that the parties are not to remarry for a period of six months after the judgment of divorce is granted.**

The repeal of a statute does not vacate a judgment rendered prior to the repeal. 50 Am. Jur., **Statutes**, §531. Therefore, persons whose judgments of divorce stipulate that they are not to remarry for six months after entry of the judgment will remain bound by the terms of the judgment after July 1 and may not remarry within the six month period without obtaining a modification of the judgment.

Very truly yours,

FORREST H. ANDERSON
Attorney General

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