S T A T E O F N E W Y O R K

6605

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. BARRA, ERRIGO -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to requiring a physician's examination and serological test of all persons applying for a marriage license

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The domestic relations law is amended by adding a new section 13-a to read as follows:

S 13-A. PHYSICIAN'S EXAMINATION AND SEROLOGICAL TEST OF APPLICANT FOR MARRIAGE LICENSE. 1. EXCEPT AS HEREIN OTHERWISE PROVIDED, NO APPLICATION FOR A MARRIAGE LICENSE SHALL BE ACCEPTED BY THE TOWN OR CITY CLERK UNLESS ACCOMPANIED BY OR UNLESS THERE SHALL HAVE BEEN FILED WITH HIM A STATEMENT OR STATEMENTS SIGNED BY A DULY LICENSED PHYSICIAN OR BY A COMMISSIONED MEDICAL OFFICER OF THE ARMY, NAVY OR PUBLIC HEALTH SERVICE OF THE UNITED STATES THAT EACH APPLICANT HAS BEEN GIVEN SUCH EXAMINATION, INCLUDING A STANDARD SEROLOGICAL TEST, AS MAY BE NECESSARY FOR THE DISCOVERY OF A SEXUALLY TRANSMISSIBLE DISEASE INCLUDING, BUT NOT LIMITED TO, ACQUIRED IMMUNE DEFICIENCY SYNDROME MADE ON A DAY SPECIFIED IN THE STATEMENT, WHICH SHALL BE NOT MORE THAN THE THIRTIETH DAY PRIOR TO THAT ON WHICH THE LICENSE IS APPLIED FOR. IF IN THE OPINION OF THE PHYSICIAN THE PERSON NAMED THEREIN IS INFECTED WITH A SEXUALLY TRANSMISSIBLE DISEASE INCLUDING, BUT NOT LIMITED TO, ACQUIRED IMMUNE DEFICIENCY SYNDROME, THE TOWN OR CITY CLERK SHALL ACCEPT THE APPLICATION NOTWITHSTANDING THIS FACT PROVIDED THE OTHER REQUIREMENTS SET FORTH IN THIS ARTICLE RELATING TO THE ACCEPTANCE OF AN APPLICATION FOR A MARRIAGE LICENSE ARE MET.

2. BECAUSE OF EMERGENCY OR OTHER CAUSE SHOWN BY AFFIDAVIT OR OTHER PROOF, A JUSTICE OF THE SUPREME COURT OR THE COUNTY JUDGE OF THE COUNTY IN WHICH THE WOMAN RESIDES, OR, IF SUCH WOMAN IS BETWEEN FOURTEEN AND SIXTEEN YEARS OF AGE, THE JUDGE OF THE FAMILY COURT OF SUCH COUNTY, IF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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SATISFIED THAT THE PUBLIC HEALTH AND WELFARE WILL NOT BE INJURIOUSLY AFFECTED THEREBY, MAY MAKE AN ORDER, IN HIS DISCRETION, ON JOINT APPLICATION OF BOTH OF THE PARTIES DESIRING THE MARRIAGE LICENSE, DISPENSING WITH THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION AS TO EITHER OR BOTH OF THE PARTIES, INCLUDING THE LABORATORY STATEMENT SPECIFIED BELOW, OR, THE STATEMENT OR STATEMENTS PROVIDED FOR BY SUCH SUBDIVISION HAVING BEEN FILED, EXTENDING THE THIRTY-DAY PERIOD FOLLOWING THE EXAMINATION AND TEST TO NOT LATER THAN A DAY SPECIFIED, WHICH, HOWEVER, SHALL BE NOT MORE THAN NINETY DAYS AFTER THE EXAMINATION AND TEST. THE ORDER SHALL BE ACCOMPANIED BY A MEMORANDUM IN WRITING OF THE JUDGE OR JUSTICE RECITING HIS REASONS FOR GRANTING THE ORDER. APPLICATION FOR SUCH EXTENSION MAY BE MADE BEFORE, ON OR AFTER THE EXPIRATION OF SUCH THIRTY-DAY PERIOD. THE ORDER, AND THE ACCOMPANYING MEMORANDUM, SHALL BE FILED WITH THE TOWN OR CITY CLERK, AND HE THEN SHALL ACCEPT AND CONSIDER APPLICATION FOR THE MARRIAGE LICENSE WITHOUT PRODUCTION OR FILING OF ANY OF THE PHYSICIANS' STATEMENTS DISPENSED WITH BY THE ORDER, OR SHALL ACCEPT AND CONSIDER THE APPLICATION WITHIN ANY SUCH EXTENDED PERIOD, AS THE CASE MAY BE. THE CLERK SHALL HOLD SUCH MEMORANDUM OF A JUDGE OR JUSTICE IN ABSOLUTE CONFIDENCE.

3. EACH PHYSICIAN'S STATEMENT SHALL INCLUDE THE NAME AND ADDRESS OF THE APPLICANT, A STATEMENT THAT A SEROLOGICAL TEST FOR A SEXUALLY TRANSMISSIBLE DISEASE INCLUDING, BUT NOT LIMITED TO, ACQUIRED IMMUNE DEFICIENCY SYNDROME WAS PERFORMED, THE DATE UPON WHICH THE SPECIMEN WAS TAKEN AND THE NAME AND LOCATION OF THE LABORATORY IN WHICH SUCH TEST WAS MADE. THE RESULT OF THE SEROLOGICAL TEST SHALL NOT BE INCLUDED IN SUCH STATEMENT. THE APPLICANT SHALL SIGN HIS OR HER NAME ON THIS FORM. UPON A SEPARATE FORM A DETAILED REPORT OF THE LABORATORY TEST, SHOWING THE RESULT OF THE TEST, SHALL BE TRANSMITTED BY THE LABORATORY TO THE PHYSICIAN, AND A COPY OF THIS REPORT WHEN POSITIVE SHALL BE SUBMITTED TO THE DISTRICT STATE HEALTH OFFICER, OR, IN A CITY OF OVER FIFTY THOUSAND IN POPULATION, OR IN A COUNTY HEALTH DISTRICT, TO THE DEPARTMENT OF HEALTH OF SUCH CITY, OR COUNTY AS THE CASE MAY BE, AND IT SHALL BE HELD IN ABSOLUTE CONFIDENCE AND SHALL NOT BE OPEN TO PUBLIC INSPECTION; PROVIDED THAT IT SHALL BE PRODUCED FOR EVIDENCE AT A TRIAL OR PROCEEDING IN A COURT OF COMPETENT JURISDICTION, INVOLVING ISSUES IN WHICH IT MAY BE MATERIAL AND RELEVANT, ON AN ORDER OF A JUSTICE OR JUDGE OF SUCH COURT REQUIRING ITS PRODUCTION.

4. A STANDARD SEROLOGICAL TEST SHALL BE A LABORATORY TEST FOR A SEXUALLY TRANSMISSIBLE DISEASE INCLUDING, BUT NOT LIMITED TO, ACQUIRED IMMUNE DEFICIENCY SYNDROME APPROVED BY THE STATE COMMISSIONER OF HEALTH AND SHALL BE PERFORMED BY THE STATE DEPARTMENT OF HEALTH, OR IN THE CITY OF NEW YORK BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF SUCH CITY, OR AT A LABORATORY APPROVED FOR THIS PURPOSE BY THE STATE DEPARTMENT OF HEALTH OR, IN THE CITY OF NEW YORK, BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF SUCH CITY.

5. ANY APPLICANT FOR MARRIAGE LICENSE, ANY PHYSICIAN OR ANY REPRESENTATIVE OF A LABORATORY WHO SHALL MISREPRESENT ANY OF THE FACTS CALLED FOR BY THE PHYSICIAN'S STATEMENT AND THE LABORATORY REPORT OR STATEMENT, OR ANY DISTRICT STATE HEALTH OFFICER OR HIS EMPLOYEE OR ANY EMPLOYEE OR OFFICIAL OF A DEPARTMENT OF HEALTH WHO SHALL NOT HOLD THE LABORATORY RECORD CONFIDENTIAL, EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION WITH RESPECT TO ITS PRODUCTION FOR EVIDENCE ON ORDER OF A JUSTICE OR JUDGE, OR ANY TOWN OR CITY CLERK OR HIS DEPUTY OR EMPLOYEE WHO SHALL NOT HOLD IN STRICTEST CONFIDENCE THE STATEMENT FILED WITH HIM AS TO THE REASONS FOR THE GRANTING OF AN ORDER UNDER SUBDIVISION TWO OF THIS SECTION, SHALL BE GUILTY OF A CLASS A MISDEMEANOR AND PUNISHABLE

ACCORDINGLY. THE PROVISIONS OF SECTION TWENTY-TWO OF THIS ARTICLE SHALL NOT APPLY TO THE PUNISHMENT FOR OFFENSES SPECIFIED IN THIS SUBDIVISION.

6. NOTHING IN THIS SECTION SHALL IMPAIR OR AFFECT EXISTING LAWS, OR RULES, REGULATIONS OR CODES MADE BY AUTHORITY OF LAW, RELATIVE TO THE REPORTING OF CASES OF A SEXUALLY TRANSMISSIBLE DISEASE INCLUDING, BUT NOT LIMITED TO, ACQUIRED IMMUNE DEFICIENCY SYNDROME DISCOVERED BY PHYSICIANS.

7. IN THE EVENT A COUPLE ALREADY LEGALLY MARRIED APPLIES FOR A MARRIAGE LICENSE FOR AN ADDITIONAL CEREMONY, THE PROVISIONS OF THIS SECTION REQUIRING A SEROLOGICAL TEST AND THE RELATED STATEMENT OF A PHYSICIAN OR MEDICAL OFFICER AND THE PROVISIONS OF SECTION THIRTEEN-B OF THIS ARTICLE SHALL NOT APPLY AND SHALL BE DISREGARDED BY THE CITY OR TOWN CLERK. SECTIONS THIRTEEN AND FIFTEEN OF THIS ARTICLE, HOWEVER, SHALL APPLY TO THE ISSUANCE OF SUCH A LICENSE, EXCEPT THAT SUCH CLERK SHALL NOTE ON THE LICENSE ISSUED BY HIM THE FOLLOWING: "THIS LICENSE IS TO BE USED ONLY FOR THE PURPOSES OF A SECOND OR SUBSEQUENT MARRIAGE CEREMONY."

S 2. This act shall take effect immediately.