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

9119

2009-2010 Regular Sessions

I N A S S E M B L Y

September 4, 2009

Introduced by M. of A. SCARBOROUGH -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the domestic relations law, in relation to establishing a pre-marital education program and a marriage and family preservation course and imposing certain requirements

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

Section 1. Section 206 of the public health law is amended by adding a new subdivision 26 to read as follows:

26. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS TO ESTABLISH A PRE-MARITAL EDUCATION PROGRAM WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, PHYSICAL LOCATIONS FOR INSTRUCTION, CURRICULUM FOR TRAINING OF INSTRUCTORS, CURRICULUM FOR THE PROGRAM, FEES FOR ENROLLMENT AND THE ISSUANCE OF CERTIFICATES FOR THOSE WHO HAVE COMPLETED THE PROGRAM. THE CURRICULUM OF THE PROGRAM SHALL INCLUDE INSTRUCTION BASED ON THE "HEALTHY MARRIAGE INITIATIVE" OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. MARRIAGE EDUCATORS AND COUNSELORS, MENTAL HEALTH PROFESSIONALS, MEMBERS OF THE CLERGY AND THEIR DESIGNEES AND OTHER PERSONS DESIGNATED BY THE COMMISSIONER, INCLUDING MEMBERS OF COMMUNITY BASED ORGANIZATIONS, MAY APPLY TO BECOME INSTRUCTORS IN THE PROGRAM.

S 2. Subdivision 3 of section 15 of the domestic relations law, as amended by section 5 of part W2 of chapter 62 of the laws of 2003, is amended and a new subdivision 5 is added to read as follows:

3. If it shall appear upon an application for a marriage license that either party is under the age of sixteen years, the town or city clerk shall require, in addition to any consents provided for in this section, the written approval and consent of a justice of the supreme court or of a judge of the family court, having jurisdiction over the town or city in which the application is made, to be attached to or endorsed upon the application, before the license is issued. The application for such

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

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approval and consent shall be heard by the judge at chambers. All papers and records pertaining to any such application shall be sealed by him and withheld from inspection, except by order of a court of competent jurisdiction. Before issuing any licenses herein provided for, the town or city clerk shall be entitled to a fee of [thirty] NINETY dollars, which sum shall be paid by the applicants before or at the time the license is issued. Any town or city clerk who shall issue a license to marry any persons one or both of whom shall not be at the time of the marriage under such license legally competent to marry without first requiring the parties to such marriage to make such affidavits and statements or who shall not require the production of documentary proof of age or the procuring of the approval and consents provided for by this article, which shall show that the parties authorized by said license to be married are legally competent to marry, shall be guilty of a misdemeanor and on conviction thereof shall be fined in the sum of one hundred dollars for each and every offense. On or before the fifteenth day of each month, each town and city clerk, except in the city of New York, shall transmit to the state commissioner of health [twenty-two] SEVENTY-THREE dollars [and fifty cents] of the amount received for each fee collected, TWENTY-THREE DOLLARS OF which shall be paid into the vital records management account as provided by section ninety-seven-cccc of the state finance law. FIFTY DOLLARS OF THE AMOUNT PAID TO THE STATE COMMISSIONER OF HEALTH SHALL BE USED FOR EXPENSES OF THE PRE-MARITAL EDUCATION PROGRAM AS SET OUT IN SUBDIVISION TWENTY-SIX OF SECTION TWO HUNDRED SIX OF THE PUBLIC HEALTH LAW. In any city the balance of all fees collected for the issuing of a marriage license, or for solemnizing a marriage, so far as collected for services rendered by any officer or employee of such city, shall be paid monthly into the city treasury and may by ordinance be credited to any fund therein designated, and said ordinance, when duly enacted, shall have the force of law in such city. Notwithstanding any other provisions of this article, the clerk of any city with the approval of the governing body of such city is hereby authorized to designate, in writing filed in the city clerk's office, a deputy clerk, if any, and/or other city employees in such office to receive applications for, examine applications, investigate and issue marriage licenses in the absence or inability of the clerk of said city to act, and said deputy and/or employees so designated are hereby vested with all the powers and duties of said city clerk relative thereto. Such deputy and/or employees shall perform said duties without additional compensation.

5. UPON APPLICATION FOR A MARRIAGE LICENSE, THE TOWN OR CITY CLERK SHALL ADVISE THE APPLICANT OF THE AVAILABILITY OF THE PRE-MARITAL EDUCATION PROGRAM AS SET OUT IN SUBDIVISION TWENTY-SIX OF SECTION TWO HUNDRED SIX OF THE PUBLIC HEALTH LAW, AND SUCH CLERK SHALL ADVISE APPLICANTS THAT THE COURSE MUST BE COMPLETED BEFORE A LICENSE IS ISSUED. A COUNTY COURT JUDGE OR A SUPREME COURT JUDGE MAY ORDER THIS REQUIREMENT WAIVED ON GOOD CAUSE SHOWN.

S 3. Section 206 of the public health law is amended by adding a new subdivision 27 to read as follows:

27. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS TO ESTABLISH A MARRIAGE AND FAMILY PRESERVATION COURSE WHICH SHALL PROVIDE AT LEAST EIGHT HOURS OF INSTRUCTION. SUCH COURSE SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING SUBJECTS: THE EFFECTS OF DIVORCE ON MINORS INCLUDING DEVELOPMENTAL STAGES OF THE MINOR, RESPONSES TO DIVORCE, SYMPTOMS OF AND RESPONSES TO MALADJUSTMENT TO DIVORCE, EDUCATION AND COUNSELING OPTIONS FOR A MINOR; THE EFFECTS OF DIVORCE ON THE

PARTIES TO AN ACTION FOR DIVORCE INCLUDING PARENTING SKILLS, COMMUNICATION SKILLS, CONFLICT RESOLUTION SKILLS, MONEY MANAGEMENT SKILLS, EMOTIONAL, FAMILY, FINANCIAL AND WORK ADJUSTMENT TECHNIQUES, STRESS REDUCTION, PARALLEL AND COOPERATIVE PARENTING TECHNIQUES, RECONCILIATION AND COUNSELING OPTIONS, REMARRIAGE ISSUES AND SUBSTANCE ABUSE INFORMATION AND REFERRAL. THE RULES AND REGULATIONS FOR THE COURSE SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, PHYSICAL LOCATIONS FOR INSTRUCTION AND FEES FOR ENROLLMENT. THE CURRICULUM OF THE COURSE MUST INCLUDE STANDARDS OF INSTRUCTION TAKEN FROM THE HEALTHY MARRIAGE INITIATIVE OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE HEALTHY MARRIAGE RESOURCE CENTER. A LICENSED PSYCHOLOGIST, A LICENSED CLINICAL SOCIAL WORKER, A LICENSED MARRIAGE AND FAMILY THERAPIST, A LICENSED MENTAL HEALTH COUNSELOR AND A MEMBER OF THE CLERGY MAY TEACH THE COURSE. FEES FOR THE COURSE SHALL BE PAID TO THE PROVIDER. THE PROVIDER OF THE COURSE SHALL PROVIDE A CERTIFICATE OF COMPLETION TO INDIVIDUALS WHO SUCCESSFULLY COMPLETE THE COURSE.

S 4. The domestic relations law is amended by adding a new section 176 to read as follows:

S 176. MARRIAGE AND FAMILY PRESERVATION COURSE. 1. UNLESS OTHERWISE PROVIDED, EACH PARTY TO AN ACTION FOR DIVORCE SHALL BE REQUIRED TO SUCCESSFULLY COMPLETE THE MARRIAGE AND FAMILY PRESERVATION COURSE AS SET OUT IN SUBDIVISION TWENTY-SEVEN OF SECTION TWO HUNDRED SIX OF THE PUBLIC HEALTH LAW.

2. A COURT MAY EXEMPT A PARTY TO A DIVORCE FROM COMPLETING THE MARRIAGE AND FAMILY PRESERVATION COURSE IF:

A. THE PARTY FILES AN AFFIDAVIT WITH THE COURT STATES THAT HE OR SHE IS A VICTIM OF DOMESTIC VIOLENCE BY THE OTHER PARTY; OR

B. THE COURT FINDS OTHER GOOD CAUSE FOR THE EXEMPTION AND STATES SUCH FINDING IN WRITING.

3. THE COURT IN A DIVORCE ACTION MAY GRANT A DIVORCE TO A PARTY WHO IS NOT EXEMPT FROM COMPLETING THE MARRIAGE AND FAMILY PRESERVATION COURSE, AND WHO DID NOT COMPLETE THE COURSE, BUT THE COURT MAY HOLD SUCH PARTY IN CONTEMPT OF COURT AND IMPOSE APPROPRIATE PENALTIES IN FOR FAILURE TO COMPLETE THE COURSE.

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, provided that the commissioner of health is immediately authorized and directed to promulgate, amend and/or repeal any rules or regulations necessary to implement the provisions of this act on its effective date.