

7732

2009-2010 Regular Sessions

I N   A S S E M B L Y

April 22, 2009

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Introduced by M. of A. O'DONNELL, GOTTFRIED, GLICK, TITONE, KELLNER, SILVER, BING, ROSENTHAL, JEFFRIES, DINOWITZ, JOHN, KAVANAGH, DenDEKKER, SCHIMEL, HEVESI, HOYT, SAYWARD, BENEDETTO -- Multi-Sponsored by -- M. of A. ALESSI, AUBRY, BOYLAND, BRENNAN, BRODSKY, CAHILL, COOK, DUPREY, ENGLEBRIGHT, FARRELL, FIELDS, GIANARIS, JAFFEE, LANCMAN, LATIMER, LAVINE, LENTOL, LIFTON, V. LOPEZ, LUPARDO, McENENY, MILLMAN, NOLAN, ORTIZ, PAULIN, PERALTA, PRETLOW, J. RIVERA, N. RIVERA, SWEENEY, THIELE, TOWNS, WEISENBERG, WRIGHT, ZEBROWSKI -- (at request of the Governor) -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to the ability to marry

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

1     Section 1. Legislative intent. Marriage is a fundamental human right.  
2     Same-sex couples and their children should have the same access as  
3     others to the protections, responsibilities, rights, obligations, and  
4     benefits of civil marriage. Stable family relationships help build a  
5     stronger society. For the welfare of the community and in fairness to  
6     all New Yorkers, this act formally recognizes otherwise-valid marriages  
7     without regard to whether the parties are of the same or different sex.  
8     It is the intent of the legislature that the marriages of same-sex and  
9     different-sex couples be treated equally in all respects under the law.  
10    The omission from this act of changes to other provisions of law shall  
11    not be construed as a legislative intent to preserve any legal  
12    distinction between same-sex couples and different-sex couples with  
13    respect to marriage. The legislature intends that all provisions of law  
14    which utilize gender-specific terms in reference to the parties to a  
15    marriage, or which in any other way may be inconsistent with this act,  
16    be construed in a gender-neutral manner or in any way necessary to  
17    effectuate the intent of this act.

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

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1 S 2. The domestic relations law is amended by adding a new section  
2 10-a to read as follows:

3 S 10-A. SEX OF PARTIES. 1. A MARRIAGE THAT IS OTHERWISE VALID SHALL BE  
4 VALID REGARDLESS OF WHETHER THE PARTIES TO THE MARRIAGE ARE OF THE SAME  
5 OR DIFFERENT SEX.

6 2. NO GOVERNMENT TREATMENT OR LEGAL STATUS, EFFECT, RIGHT, BENEFIT,  
7 PRIVILEGE, PROTECTION OR RESPONSIBILITY RELATING TO MARRIAGE, WHETHER  
8 DERIVING FROM STATUTE, ADMINISTRATIVE OR COURT RULE, PUBLIC POLICY,  
9 COMMON LAW OR ANY OTHER SOURCE OF LAW, SHALL DIFFER BASED ON THE PARTIES  
10 TO THE MARRIAGE BEING OR HAVING BEEN OF THE SAME SEX RATHER THAN A  
11 DIFFERENT SEX. WHEN NECESSARY TO IMPLEMENT THE RIGHTS AND RESPONSIBIL-  
12 ITIES OF SPOUSES UNDER THE LAW, ALL GENDER-SPECIFIC LANGUAGE OR TERMS  
13 SHALL BE CONSTRUED IN A GENDER-NEUTRAL MANNER IN ALL SUCH SOURCES OF  
14 LAW.

15 S 3. Section 13 of the domestic relations law, as amended by chapter  
16 720 of the laws of 1957, is amended to read as follows:

17 S 13. Marriage licenses. It shall be necessary for all persons  
18 intended to be married in New York state to obtain a marriage license  
19 from a town or city clerk in New York state and to deliver said license,  
20 within sixty days, to the clergyman or magistrate who is to officiate  
21 before the marriage ceremony may be performed. In case of a marriage  
22 contracted pursuant to subdivision four of section eleven of this chap-  
23 ter, such license shall be delivered to the judge of the court of record  
24 before whom the acknowledgment is to be taken. If either party to the  
25 marriage resides upon an island located not less than twenty-five miles  
26 from the office or residence of the town clerk of the town of which such  
27 island is a part, and if such office or residence is not on such island  
28 such license may be obtained from any justice of the peace residing on  
29 such island, and such justice, in respect to powers and duties relating  
30 to marriage licenses, shall be subject to the provisions of this article  
31 governing town clerks and shall file all statements or affidavits  
32 received by him while acting under the provisions of this section with  
33 the town clerk of such town. NO APPLICATION FOR A MARRIAGE LICENSE SHALL  
34 BE DENIED ON THE GROUND THAT THE PARTIES ARE OF THE SAME, OR A DIFFER-  
35 ENT, SEX.

36 S 4. Subdivision 1 of section 11 of the domestic relations law, as  
37 amended by chapter 319 of the laws of 1959, is amended to read as  
38 follows:

39 1. A clergyman or minister of any religion, or by the senior leader,  
40 or any of the other leaders, of The Society for Ethical Culture in the  
41 city of New York, having its principal office in the borough of Manhat-  
42 tan, or by the leader of The Brooklyn Society for Ethical Culture,  
43 having its principal office in the borough of Brooklyn of the city of  
44 New York, or of the Westchester Ethical Society, having its principal  
45 office in Westchester county, or of the Ethical Culture Society of Long  
46 Island, having its principal office in Nassau county, or of the River-  
47 dale-Yonkers Ethical Society having its principal office in Bronx coun-  
48 ty, or by the leader of any other Ethical Culture Society affiliated  
49 with the American Ethical Union; PROVIDED THAT NO CLERGYMAN, MINISTER OR  
50 SOCIETY FOR ETHICAL CULTURE LEADER SHALL BE REQUIRED TO SOLEMNIZE ANY  
51 MARRIAGE WHEN ACTING IN HIS OR HER CAPACITY UNDER THIS SUBDIVISION.

52 S 5. This act shall take effect immediately.