

7600

2011-2012 Regular Sessions

I N A S S E M B L Y

May 10, 2011

Introduced by M. of A. O'DONNELL -- 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.
18 S 2. The domestic relations law is amended by adding a new section
19 10-a to read as follows:
20 S 10-A. SEX OF PARTIES. 1. A MARRIAGE THAT IS OTHERWISE VALID SHALL BE
21 VALID REGARDLESS OF WHETHER THE PARTIES TO THE MARRIAGE ARE OF THE SAME
22 OR DIFFERENT SEX.
23 2. NO GOVERNMENT TREATMENT OR LEGAL STATUS, EFFECT, RIGHT, BENEFIT,
24 PRIVILEGE, PROTECTION OR RESPONSIBILITY RELATING TO MARRIAGE, WHETHER
25 DERIVING FROM STATUTE, ADMINISTRATIVE OR COURT RULE, PUBLIC POLICY,

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

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1 COMMON LAW OR ANY OTHER SOURCE OF LAW, SHALL DIFFER BASED ON THE PARTIES
2 TO THE MARRIAGE BEING OR HAVING BEEN OF THE SAME SEX RATHER THAN A
3 DIFFERENT SEX. WHEN NECESSARY TO IMPLEMENT THE RIGHTS AND RESPONSIBIL-
4 ITIES OF SPOUSES UNDER THE LAW, ALL GENDER-SPECIFIC LANGUAGE OR TERMS
5 SHALL BE CONSTRUED IN A GENDER-NEUTRAL MANNER IN ALL SUCH SOURCES OF
6 LAW.

7 S 3. Section 13 of the domestic relations law, as amended by chapter
8 720 of the laws of 1957, is amended to read as follows:

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

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

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

44 S 5. This act shall take effect immediately.