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

8354

2011-2012 Regular Sessions

I N A S S E M B L Y

June 14, 2011

Introduced by M. of A. O'DONNELL, GOTTFRIED, GLICK, TITONE, KELLNER, BRONSON, J. RIVERA, SILVER, FARRELL, SAYWARD, LENTOL, NOLAN, WEISENBERG, ARROYO, BRENNAN, DINOWITZ, HOYT, LIFTON, MILLMAN, CAHILL, PAULIN, REILLY, BING, JEFFRIES, JAFFEE, ROSENTHAL, KAVANAGH, DenDEKKER, SCHIMEL, HEVESI, BENEDETTO, SCHROEDER, J. MILLER, LAVINE, LANCMAN, LINARES, MOYA, ROBERTS, SIMOTAS, ABINANTI, BRAUNSTEIN -- Multi-Sponsored by -- M. of A. AUBRY, BOYLAND, BROOK-KRASNY, CANESTRARI, COOK, DUPREY, ENGLEBRIGHT, LATIMER, V. LOPEZ, LUPARDO, MAGNARELLI, McENENY, MORELLE, ORTIZ, PRETLOW, RAMOS, N. RIVERA, P. RIVERA, RODRIGUEZ, RUSSELL, SWEENEY, THIELE, TITUS, WEPRIN, 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:

Section 1. This act shall be known and may be cited as the "Marriage Equality Act".

S 2. Legislative intent. Marriage is a fundamental human right. Same-sex couples should have the same access as others to the protections, responsibilities, rights, obligations, and benefits of civil marriage. Stable family relationships help build a stronger society. For the welfare of the community and in fairness to all New Yorkers, this act formally recognizes otherwise-valid marriages without regard to whether the parties are of the same or different sex.

It is the intent of the legislature that the marriages of same-sex and different-sex couples be treated equally in all respects under the law. The omission from this act of changes to other provisions of law shall not be construed as a legislative intent to preserve any legal distinction between same-sex couples and different-sex couples with respect to marriage. The legislature intends that all provisions of law

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

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which utilize gender-specific terms in reference to the parties to a marriage, or which in any other way may be inconsistent with this act, be construed in a gender-neutral manner or in any way necessary to effectuate the intent of this act.

S 3. The domestic relations law is amended by adding two new sections 10-a and 10-b to read as follows:

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

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

S 10-B. APPLICATION. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PURSUANT TO SUBDIVISION NINE OF SECTION TWO HUNDRED NINETY-TWO OF THE EXECUTIVE LAW, A CORPORATION INCORPORATED UNDER THE BENEVOLENT ORDERS LAW OR DESCRIBED IN THE BENEVOLENT ORDERS LAW BUT FORMED UNDER ANY OTHER LAW OF THIS STATE OR A RELIGIOUS CORPORATION INCORPORATED UNDER THE EDUCATION LAW OR THE RELIGIOUS CORPORATIONS LAWS SHALL BE DEEMED TO BE IN ITS NATURE DISTINCTLY PRIVATE AND THEREFORE, SHALL NOT BE REQUIRED TO PROVIDE ACCOMMODATIONS, ADVANTAGES, FACILITIES OR PRIVILEGES RELATED TO THE SOLEMNIZATION OR CELEBRATION OF A MARRIAGE.

2. A REFUSAL BY A BENEVOLENT ORGANIZATION OR A RELIGIOUS CORPORATION, INCORPORATED UNDER THE EDUCATION LAW OR THE RELIGIOUS CORPORATIONS LAW, TO PROVIDE ACCOMMODATIONS, ADVANTAGES, FACILITIES OR PRIVILEGES IN CONNECTION WITH SECTION TEN-A OF THIS ARTICLE SHALL NOT CREATE A CIVIL CLAIM OR CAUSE OF ACTION.

3. PURSUANT TO SUBDIVISION ELEVEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW, NOTHING IN THIS ARTICLE SHALL BE DEEMED OR CONSTRUED TO PROHIBIT ANY RELIGIOUS OR DENOMINATIONAL INSTITUTION OR ORGANIZATION, OR ANY ORGANIZATION OPERATED FOR CHARITABLE OR EDUCATIONAL PURPOSES, WHICH IS OPERATED, SUPERVISED OR CONTROLLED BY OR IN CONNECTION WITH A RELIGIOUS ORGANIZATION FROM LIMITING EMPLOYMENT OR SALES OR RENTAL OF HOUSING ACCOMMODATIONS OR ADMISSION TO OR GIVING PREFERENCE TO PERSONS OF THE SAME RELIGION OR DENOMINATION OR FROM TAKING SUCH ACTION AS IS CALCULATED BY SUCH ORGANIZATION TO PROMOTE THE RELIGIOUS PRINCIPLES FOR WHICH IT IS ESTABLISHED OR MAINTAINED.

S 4. Section 13 of the domestic relations law, as amended by chapter 720 of the laws of 1957, is amended to read as follows:

S 13. Marriage licenses. It shall be necessary for all persons intended to be married in New York state to obtain a marriage license from a town or city clerk in New York state and to deliver said license, within sixty days, to the clergyman or magistrate who is to officiate before the marriage ceremony may be performed. In case of a marriage contracted pursuant to subdivision four of section eleven of this chapter, such license shall be delivered to the judge of the court of record before whom the acknowledgment is to be taken. If either party to the marriage resides upon an island located not less than twenty-five miles from the office or residence of the town clerk of the town of which such island is a part, and if such office or residence is not on such island such license may be obtained from any justice of the peace residing on

such island, and such justice, in respect to powers and duties relating to marriage licenses, shall be subject to the provisions of this article governing town clerks and shall file all statements or affidavits received by him while acting under the provisions of this section with the town clerk of such town. NO APPLICATION FOR A MARRIAGE LICENSE SHALL BE DENIED ON THE GROUND THAT THE PARTIES ARE OF THE SAME, OR A DIFFERENT, SEX.

S 5. Subdivision 1 of section 11 of the domestic relations law, as amended by chapter 319 of the laws of 1959, is amended and a new subdivision 1-a is added to read as follows:

1. A clergyman or minister of any religion, or by the senior leader, or any of the other leaders, of The Society for Ethical Culture in the city of New York, having its principal office in the borough of Manhattan, or by the leader of The Brooklyn Society for Ethical Culture, having its principal office in the borough of Brooklyn of the city of New York, or of the Westchester Ethical Society, having its principal office in Westchester county, or of the Ethical Culture Society of Long Island, having its principal office in Nassau county, or of the Riverdale-Yonkers Ethical Society having its principal office in Bronx county, or by the leader of any other Ethical Culture Society affiliated with the American Ethical Union; PROVIDED THAT NO CLERGYMAN OR MINISTER AS DEFINED IN SECTION TWO OF THE RELIGIOUS CORPORATIONS LAW, OR SOCIETY FOR ETHICAL CULTURE LEADER SHALL BE REQUIRED TO SOLEMNIZE ANY MARRIAGE WHEN ACTING IN HIS OR HER CAPACITY UNDER THIS SUBDIVISION.

1-A. A REFUSAL BY A CLERGYMAN OR MINISTER AS DEFINED IN SECTION TWO OF THE RELIGIOUS CORPORATIONS LAW, OR SOCIETY FOR ETHICAL CULTURE LEADER TO SOLEMNIZE ANY MARRIAGE UNDER THIS SUBDIVISION SHALL NOT CREATE A CIVIL CLAIM OR CAUSE OF ACTION.

S 6. This act shall take effect on the thirtieth day after it shall have become a law.