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

4460

2013-2014 Regular Sessions

I N S E N A T E

April 3, 2013

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the domestic relations law and the civil rights law, in relation to name changes upon marriage

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

Section 1. Short title. This act shall be known and may be cited as "Jillian's Law".

S 2. Paragraph (b) of subdivision 1 of section 15 of the domestic relations law, as added by chapter 583 of the laws of 1985, is amended to read as follows:

(b) Every application for a marriage license shall contain a statement to the following effect:

NOTICE TO APPLICANTS

(1) Every person has the right to adopt any name by which he or she wishes to be known simply by using that name consistently and without intent to defraud.

(2) A person's last name (surname) does not automatically change upon marriage, and neither party to the marriage must change his or her last name. Parties to a marriage need not have the same last name.

(3) One or both parties to a marriage may elect to change the surname by which he or she wishes to be known after the solemnization of the marriage by entering the new name in the space below. Such entry shall consist of one of the following surnames:

(i) the surname of the other spouse; or

(ii) any former surname of either spouse; or

(iii) a name combining into a single surname all or a segment of the premarriage surname or any former surname of each spouse; or

(iv) a combination name separated by a hyphen, provided that each part of such combination surname is the premarriage surname, or any former surname, of each of the spouses.

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

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(4) ONE OR BOTH PARTIES TO A MARRIAGE MAY ELECT TO CHANGE THE MIDDLE NAME BY WHICH HE OR SHE WISHES TO BE KNOWN AFTER THE SOLEMNIZATION OF THE MARRIAGE BY ENTERING THE NEW NAME IN THE SPACE BELOW. SUCH ENTRY SHALL CONSIST OF ONE OF THE FOLLOWING OPTIONS:

(I) THE CURRENT SURNAME OF THE SPOUSE ELECTING TO CHANGE HIS OR HER NAME; OR

(II) ANY FORMER SURNAME OF THE SPOUSE ELECTING TO CHANGE HIS OR HER NAME; OR

(III) THE SURNAME OF THE OTHER SPOUSE.

(5) The use of this option will have the effect of providing a record of the change of name. The marriage certificate, containing the new name, if any, constitutes proof that the use of the new name, or the retention of the former name, is lawful.

[(5)] (6) Neither the use of, nor the failure to use, this option of selecting a new surname OR MIDDLE NAME by means of this application abrogates the right of each person to adopt a different name through usage at some future date.

.....

(Optional -- Enter new surname above)

S 3. Subdivision 1 of section 14-a of the domestic relations law, as amended by chapter 583 of the laws of 1985, is amended to read as follows:

1. Upon receipt of the return of the marriage license, properly endorsed and completed by the person who shall have solemnized a marriage as provided in this article, the town and city clerks of each and every town or city in the state shall, after abstracting, recording and indexing the statement of performance of solemnization, issue to the couple within fifteen days after such receipt or return of the completed marriage license a certificate of marriage, which certificate shall be substantially in the following form and contain the following facts:

Record No.....of Year.....

THIS IS TO CERTIFY

that ..... ,
first name, premarriage MIDDLE AND surname,
new MIDDLE AND/OR surname (if applicable)
residing at ..... ,
who was born on ....., at ..... ,
date
and ..... ,
first name, premarriage MIDDLE AND
surname, new MIDDLE AND/OR
surname (if applicable)
residing at ..... ,
who was born ....., at ..... ,
date
were married on.....at ..... ,
date
as shown by the duly registered license and certificate of
marriage of said persons on file in this office.

(SEAL) .....
Town or City Clerk

Dated at....., N. Y.
.....

No other facts contained in the affidavits, statements, consents or licenses shall be certified by such town and city clerks, unless expressly requested in writing by the man or woman named in such affidavit, license, statement or record.

S 4. Section 65 of the civil rights law, as added by chapter 583 of the laws of 1985 and subdivision 5 as added by chapter 417 of the laws of 1999, is amended to read as follows:

S 65. Optional change of name upon marriage, divorce or annulment. 1. Any person may, upon marriage, elect to assume a new name according to the provisions of paragraph (b) of subdivision one of section fifteen of the domestic relations law.

2. Any person may, upon divorce or annulment, elect to resume the use of a former surname OR MIDDLE NAME according to the provisions of section two hundred forty-a of the domestic relations law.

3. The effect of the name changes accomplished in the manner prescribed in subdivisions one and two of this section shall be as set forth in section sixty-four of this chapter.

4. Nothing in this article shall be construed to abrogate or alter the common law right of every person, whether married or single, to retain his or her name or to assume a new one so long as the new name is used consistently and without intent to defraud.

5. Notwithstanding any inconsistent provision of law, the state shall not impose any fee, charge, surcharge or assessment solely to change the surname OR MIDDLE NAME contained on a license, permit, registration or other identifying document for a person who, because of a change in marital status, has assumed a new name or reassumes use of a former surname as provided for in this section.

S 5. This act shall take effect immediately.