

8563

2015-2016 Regular Sessions

I N A S S E M B L Y

November 16, 2015

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to increasing the age of consent for purposes of marriage

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

1 Section 1. Subdivisions 2 and 3 of section 15 of the domestic
2 relations law, subdivision 2 as amended by chapter 126 of the laws of
3 1984 and subdivision 3 as amended by section 5 of part W2 of chapter 62
4 of the laws of 2003, are amended to read as follows:
5 2. If it appears from the affidavits and statements so taken, that the
6 persons for whose marriage the license in question is demanded are
7 legally competent to marry, the said clerk shall issue such license
8 except in the following cases. If it shall appear upon an application
9 that [the] AN applicant is under eighteen years of age, [before] the
10 town or city clerk [shall issue a license, he] shall require documentary
11 proof of age in the form of an original or certified copy of a birth
12 record, a certification of birth issued by the state department of
13 health, a local registrar of vital statistics or other public officer
14 charged with similar duties by the laws of any other state, territory or
15 country, a baptismal record, passport, automobile driver's license, life
16 insurance policy, employment certificate, school record, immigration
17 record, naturalization record or court record, showing the date of birth
18 of such minor. If the town or city clerk shall be in doubt as to whether
19 an applicant claiming to be [over] eighteen years of age OR OLDER is
20 actually [over] eighteen years of age OR OLDER, he shall, before issuing
21 such license, require documentary proof as above defined. If it shall
22 appear upon an application of the applicants as provided in this section
23 or upon information required by the clerk that either party is [at least
24 sixteen years of age but] under eighteen years of age, then the town or
25 city clerk [before he shall issue a license shall require the written

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

LBD13068-03-5

1 consent to the marriage from both parents of the minor or minors or such
2 as shall then be living, or if the parents of both are dead, then the
3 written consent of the guardian or guardians of such minor or minors. If
4 one of the parents has been missing and has not been seen or heard from
5 for a period of one year preceding the time of the application for the
6 license, although diligent inquiry has been made to learn the where-
7 abouts of such parent, the town or city clerk may issue a license to
8 such minor upon the sworn statement and consent of the other parent. If
9 the marriage of the parents of such minor has been dissolved by decree
10 of divorce or annulment, the consent of the parent to whom the court
11 which granted the decree has awarded the custody of such minor shall be
12 sufficient. If there is no parent or guardian of the minor or minors
13 living to their knowledge then the town or city clerk shall require the
14 written consent to the marriage of the person under whose care or
15 government the minor or minors may be before a license shall be issued.
16 If a parent of such minor has been adjudicated an incompetent, the town
17 or city clerk may issue a license to such minor upon the production of a
18 certified copy of such judgment so determining and upon the written
19 consent of the other parent. If there is no other parent whose consent
20 is required by this section, then and in such event, the town or city
21 clerk shall require the written consent of the guardian of such minor or
22 of the person under whose care or government the minor may be before a
23 license shall be issued. The parents, guardians, or other persons whose
24 consent it shall be necessary to obtain and file with the town or city
25 clerk before the license shall issue, shall personally appear and
26 acknowledge or execute the same before the town or city clerk, or some
27 other officer authorized to administer oaths and take acknowledgments
28 provided that where such affidavit or acknowledgment is made before an
29 official other than an officer designated in section two hundred nine-
30 ty-eight of the real property law as authorized to take such affidavit
31 or acknowledgment if a conveyance of real property were being acknowl-
32 edged or proved, or if a certificate of authentication would be required
33 by section three hundred ten of the real property law to entitle the
34 instrument to be recorded if it were a conveyance of real property, the
35 consent when filed must have attached thereto a certificate of authenti-
36 cation.

37 3. If it shall appear upon an application for a marriage license that
38 either party is under the age of sixteen years, the town or city clerk
39 shall require, in addition to any consents provided for in this section,
40 the written approval and consent of a justice of the supreme court or of
41 a judge of the family court, having jurisdiction over the town or city
42 in which the application is made, to be attached to or endorsed upon the
43 application, before the license is issued. The application for such
44 approval and consent shall be heard by the judge at chambers. All papers
45 and records pertaining to any such application shall be sealed by him
46 and withheld from inspection, except by order of a court of competent
47 jurisdiction.] SHALL NOT ISSUE THE LICENSE. Before issuing any licenses
48 herein provided for, the town or city clerk shall be entitled to a fee
49 of thirty dollars, which sum shall be paid by the applicants before or
50 at the time the license is issued. Any town or city clerk who shall
51 issue a license to marry any persons one or both of whom shall not be at
52 the time of the marriage under such license legally competent to marry
53 without first requiring the parties to such marriage to make such affi-
54 davits and statements or who shall not require the production of docu-
55 mentary proof of age [or the procuring of the approval and consents
56 provided for by this article], which shall show that the parties author-

1 ized by said license to be married are legally competent to marry, shall
2 be guilty of a misdemeanor and on conviction thereof shall be fined in
3 the sum of one hundred dollars for each and every offense. On or before
4 the fifteenth day of each month, each town and city clerk, except in the
5 city of New York, shall transmit to the state commissioner of health
6 twenty-two dollars and fifty cents of the amount received for each fee
7 collected, which shall be paid into the vital records management account
8 as provided by section ninety-seven-cccc of the state finance law. In
9 any city the balance of all fees collected for the issuing of a marriage
10 license, or for solemnizing a marriage, so far as collected for services
11 rendered by any officer or employee of such city, shall be paid monthly
12 into the city treasury and may by ordinance be credited to any fund
13 therein designated, and said ordinance, when duly enacted, shall have
14 the force of law in such city. Notwithstanding any other provisions of
15 this article, the clerk of any city with the approval of the governing
16 body of such city is hereby authorized to designate, in writing filed in
17 the city clerk's office, a deputy clerk, if any, and/or other city
18 employees in such office to receive applications for, examine applica-
19 tions, investigate and issue marriage licenses in the absence or inabil-
20 ity of the clerk of said city to act, and said deputy and/or employees
21 so designated are hereby vested with all the powers and duties of said
22 city clerk relative thereto. Such deputy and/or employees shall perform
23 said duties without additional compensation.

24 S 2. Section 13-b of the domestic relations law, as amended by chapter
25 652 of the laws of 2007, is amended to read as follows:

26 S 13-b. Time within which marriage may be solemnized. A marriage shall
27 not be solemnized within twenty-four hours after the issuance of the
28 marriage license, unless authorized by an order of a court of record as
29 hereinafter provided, nor shall it be solemnized after sixty days from
30 the date of the issuance of the marriage license unless authorized
31 pursuant to section three hundred fifty-four-d of the executive law.
32 Every license to marry hereafter issued by a town or city clerk, in
33 addition to other requirements specified by this chapter, must contain a
34 statement of the day and the hour the license is issued and the period
35 during which the marriage may be solemnized. It shall be the duty of the
36 clergyman or magistrate performing the marriage ceremony, or if the
37 marriage is solemnized by written contract, of the judge before whom the
38 contract is acknowledged, to annex to or endorse upon the marriage
39 license the date and hour the marriage is solemnized. A judge or justice
40 of the supreme court of this state or the county judge of the county in
41 which either party to be married resides, or if such party is under
42 [sixteen] EIGHTEEN years of age, the judge of the family court of such
43 county, if it shall appear from an examination of the license and any
44 other proofs submitted by the parties that one of the parties is in
45 danger of imminent death, or by reason of other emergency public inter-
46 est will be promoted thereby, or that such delay will work irreparable
47 injury or great hardship upon the contracting parties, or one of them,
48 may make an order authorizing the immediate solemnization of the
49 marriage and upon filing such order with the clergyman or magistrate
50 performing the marriage ceremony, or if the marriage is to be solemnized
51 by written contract, with the judge before whom the contract is acknowl-
52 edged, such clergyman or magistrate may solemnize such marriage, or such
53 judge may take such acknowledgment as the case may be, without waiting
54 for such three day period and twenty-four hour period to elapse. The
55 clergyman, magistrate or judge must file such order with the town or
56 city clerk who issued the license within five days after the marriage is

1 solemnized. Such town or city clerk must record and index the order in
2 the book required to be kept by him for recording affidavits, state-
3 ments, consents and licenses, and when so recorded the order shall
4 become a public record and available in any prosecution under this
5 section. A person who shall solemnize a marriage in violation of this
6 section shall be guilty of a misdemeanor and upon conviction thereof
7 shall be punished by a fine of fifty dollars for each offense, and in
8 addition thereto, his right to solemnize a marriage shall be suspended
9 for ninety days.

10 S 3. Section 15-a of the domestic relations law, as amended by chapter
11 126 of the laws of 1984, is amended to read as follows:

12 S 15-a. Marriages of minors under [fourteen] EIGHTEEN years of age.
13 Any marriage in which either party is under the age of [fourteen] EIGH-
14 TEEN years is hereby prohibited. Any town or city clerk who shall know-
15 ingly issue a marriage license to any persons, one or both of whom shall
16 be at the time of their contemplated marriage actually under the age of
17 [fourteen] EIGHTEEN years, shall be guilty of a misdemeanor and on
18 conviction thereof shall be fined in the sum of one hundred dollars.

19 S 4. This act shall take effect immediately and shall apply to
20 licenses issued on and after such effective date and to marriages that
21 have not been solemnized prior to such effective date.