

STATE OF NEW YORK

1137

2017-2018 Regular Sessions

IN ASSEMBLY

January 10, 2017

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

AN ACT to amend the domestic relations law and the executive law, in relation to designating lay individuals to solemnize marriages

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 11 of the domestic relations law is amended by adding a new subdivision 3-b to read as follows:

3-b. A temporary justice of the peace, as designated by the secretary of state pursuant to section one hundred ten of the executive law.

§ 2. Section 12 of the domestic relations law is amended to read as follows:

§ 12. Marriage, how solemnized. No particular form or ceremony is required when a marriage is solemnized as herein provided by a clergyman [~~or~~], magistrate, or temporary justice of the peace as designated by the secretary of state pursuant to section one hundred ten of the executive law but the parties must solemnly declare in the presence of a clergyman [~~or~~], magistrate, or temporary justice of the peace and the attending witness or witnesses that they take each other as [~~husband and wife~~] spouses. In every case, at least one witness beside the clergyman [~~or~~], magistrate, or temporary justice of the peace must be present at the ceremony.

The preceding provisions of this chapter, so far as they relate to the manner of solemnizing marriages, shall not affect marriages among the people called friends or quakers; nor marriages among the people of any other denominations having as such any particular mode of solemnizing marriages; but such marriages must be solemnized in the manner heretofore used and practiced in their respective societies or denominations, and marriages so solemnized shall be as valid as if this article had not been enacted.

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

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§ 3. Section 13 of the domestic relations law, as amended by chapter 95 of the laws of 2011, is amended to read as follows:

§ 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, or temporary justice of the peace as designated by the secretary of state pursuant to section one hundred ten of the executive law 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.

§ 4. Section 13-b of the domestic relations law, as amended by chapter 652 of the laws of 2007, is amended to read as follows:

§ 13-b. Time within which marriage may be solemnized. A marriage shall not be solemnized within twenty-four hours after the issuance of the marriage license, unless authorized by an order of a court of record as hereinafter provided, nor shall it be solemnized after sixty days from the date of the issuance of the marriage license unless authorized pursuant to section three hundred fifty-four-d of the executive law. Every license to marry hereafter issued by a town or city clerk, in addition to other requirements specified by this chapter, must contain a statement of the day and the hour the license is issued and the period during which the marriage may be solemnized. It shall be the duty of the clergyman ~~[or]~~, magistrate, or temporary justice of the peace, as designated by the secretary of state pursuant to section one hundred ten of the executive law, performing the marriage ceremony, or if the marriage is solemnized by written contract, of the judge before whom the contract is acknowledged, to annex to or endorse upon the marriage license the date and hour the marriage is solemnized. A judge or justice of the supreme court of this state or the county judge of the county in which either party to be married resides, or if such party is under sixteen years of age, the judge of the family court of such county, if it shall appear from an examination of the license and any other proofs submitted by the parties that one of the parties is in danger of imminent death, or by reason of other emergency public interest will be promoted thereby, or that such delay will work irreparable injury or great hardship upon the contracting parties, or one of them, may make an order authorizing the immediate solemnization of the marriage and upon filing such order with the clergyman ~~[or]~~, magistrate, or temporary justice of the peace performing the marriage ceremony, or if the marriage is to be solemnized by written contract, with the judge before whom the contract is acknowledged, such clergyman ~~[or]~~, magistrate, or temporary justice of the peace may solemnize such marriage, or such judge may take such acknowledgment as the case may be, without waiting for such three day

1 period and twenty-four hour period to elapse. The clergyman, magistrate
2 [~~ex~~], judge, or temporary justice of the peace, as designated by the
3 secretary of state pursuant to section one hundred ten of the executive
4 law, must file such order with the town or city clerk who issued the
5 license within five days after the marriage is solemnized. Such town or
6 city clerk must record and index the order in the book required to be
7 kept by him or her for recording affidavits, statements, consents and
8 licenses, and when so recorded the order shall become a public record
9 and available in any prosecution under this section. A person who shall
10 solemnize a marriage in violation of this section shall be guilty of a
11 misdemeanor and upon conviction thereof shall be punished by a fine of
12 fifty dollars for each offense, and in addition thereto, his or her
13 right to solemnize a marriage shall be suspended for ninety days.

14 § 5. The executive law is amended by adding a new section 110 to read
15 as follows:

16 § 110. Designation of temporary justice of the peace. The secretary,
17 or his or her designee, shall issue temporary justice of the peace
18 designations to laypersons over the age of eighteen regardless of state
19 residence who intend to perform a marriage solemnization ceremony within
20 the state. Such designations shall only be issued after an applicant
21 remits a completed application form and fee, both to be determined by
22 the secretary. The application form shall require the following informa-
23 tion and be accompanied by legal proof of identification. From the
24 applicant requesting designation: applicant name, date of birth, legal
25 address, email address and telephone number. The application form shall
26 also require the names, addresses and birth dates of the parties to be
27 married as they appear on the application for a marriage license issued
28 by a town or city clerk in the state, the name of the city, town or
29 village in which such solemnization will be performed and the exact date
30 of the solemnization. The application and fee must be received by the
31 department at least thirty days before the date of the ceremony. The
32 department shall notify the applicant of approval of such designation no
33 later than seven days prior to the date of the marriage ceremony stated
34 on the application. Such designations shall only be valid for the cere-
35 mony stated on the application and shall expire upon completion of such
36 solemnization.

37 § 6. This act shall take effect on the ninetieth day after it shall
38 have become a law; provided, however, that effective immediately, the
39 addition, amendment and/or repeal of any rule or regulation necessary
40 for the implementation of this act on its effective date are authorized
41 and directed to be made and completed on or before such effective date.