

# STATE OF NEW YORK

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1137--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 10, 2017

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Introduced by M. of A. GALEF, JAFFEE, MOYA, BLAKE, LUPINACCI -- Multi-Sponsored by -- M. of A. LUPARDO, THIELE -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

3 3-b. A one-day marriage officiant, as designated by the secretary of  
4 state pursuant to section one hundred ten of the executive law.

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

7 § 12. Marriage, how solemnized. No particular form or ceremony is  
8 required when a marriage is solemnized as herein provided by a clergyman  
9 [~~or~~], magistrate, or one-day marriage officiant as designated by the  
10 secretary of state pursuant to section one hundred ten of the executive  
11 law but the parties must solemnly declare in the presence of a clergyman  
12 [~~or~~], magistrate, or one-day marriage officiant and the attending  
13 witness or witnesses that they take each other as [~~husband and wife~~]  
14 spouses. In every case, at least one witness beside the clergyman [~~or~~],  
15 magistrate, or one-day marriage officiant must be present at the ceremo-  
16 ny.

17 The preceding provisions of this chapter, so far as they relate to the  
18 manner of solemnizing marriages, shall not affect marriages among the  
19 people called friends or quakers; nor marriages among the people of any  
20 other denominations having as such any particular mode of solemnizing  
21 marriages; but such marriages must be solemnized in the manner hereto-  
22 fore used and practiced in their respective societies or denominations,

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

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1 and marriages so solemnized shall be as valid as if this article had not  
2 been enacted.

3 § 3. Section 13 of the domestic relations law, as amended by chapter  
4 95 of the laws of 2011, is amended to read as follows:

5 § 13. Marriage licenses. It shall be necessary for all persons  
6 intended to be married in New York state to obtain a marriage license  
7 from a town or city clerk in New York state and to deliver said license,  
8 within sixty days, to the clergyman ~~[or]~~, magistrate, or one-day  
9 marriage officiant as designated by the secretary of state pursuant to  
10 section one hundred ten of the executive law who is to officiate before  
11 the marriage ceremony may be performed. In case of a marriage contracted  
12 pursuant to subdivision four of section eleven of this chapter, such  
13 license shall be delivered to the judge of the court of record before  
14 whom the acknowledgment is to be taken. If either party to the marriage  
15 resides upon an island located not less than twenty-five miles from the  
16 office or residence of the town clerk of the town of which such island  
17 is a part, and if such office or residence is not on such island such  
18 license may be obtained from any justice of the peace residing on such  
19 island, and such justice, in respect to powers and duties relating to  
20 marriage licenses, shall be subject to the provisions of this article  
21 governing town clerks and shall file all statements or affidavits  
22 received by him while acting under the provisions of this section with  
23 the town clerk of such town. No application for a marriage license shall  
24 be denied on the ground that the parties are of the same, or a differ-  
25 ent, sex.

26 § 4. Section 13-b of the domestic relations law, as amended by chapter  
27 652 of the laws of 2007, is amended to read as follows:

28 § 13-b. Time within which marriage may be solemnized. A marriage shall  
29 not be solemnized within twenty-four hours after the issuance of the  
30 marriage license, unless authorized by an order of a court of record as  
31 hereinafter provided, nor shall it be solemnized after sixty days from  
32 the date of the issuance of the marriage license unless authorized  
33 pursuant to section three hundred fifty-four-d of the executive law.  
34 Every license to marry hereafter issued by a town or city clerk, in  
35 addition to other requirements specified by this chapter, must contain a  
36 statement of the day and the hour the license is issued and the period  
37 during which the marriage may be solemnized. It shall be the duty of the  
38 clergyman ~~[or]~~, magistrate, or one-day marriage officiant, as designated  
39 by the secretary of state pursuant to section one hundred ten of the  
40 executive law, performing the marriage ceremony, or if the marriage is  
41 solemnized by written contract, of the judge before whom the contract is  
42 acknowledged, to annex to or endorse upon the marriage license the date  
43 and hour the marriage is solemnized. A judge or justice of the supreme  
44 court of this state or the county judge of the county in which either  
45 party to be married resides, or if such party is under sixteen years of  
46 age, the judge of the family court of such county, if it shall appear  
47 from an examination of the license and any other proofs submitted by the  
48 parties that one of the parties is in danger of imminent death, or by  
49 reason of other emergency public interest will be promoted thereby, or  
50 that such delay will work irreparable injury or great hardship upon the  
51 contracting parties, or one of them, may make an order authorizing the  
52 immediate solemnization of the marriage and upon filing such order with  
53 the clergyman ~~[or]~~, magistrate, or one-day marriage officiant performing  
54 the marriage ceremony, or if the marriage is to be solemnized by written  
55 contract, with the judge before whom the contract is acknowledged, such  
56 clergyman ~~[or]~~, magistrate, one-day marriage officiant may solemnize

1 such marriage, or such judge may take such acknowledgment as the case  
2 may be, without waiting for such three day period and twenty-four hour  
3 period to elapse. The clergyman, magistrate [~~or~~], judge, one-day  
4 marriage officiant, as designated by the secretary of state pursuant to  
5 section one hundred ten of the executive law, must file such order with  
6 the town or city clerk who issued the license within five days after the  
7 marriage is solemnized. Such town or city clerk must record and index  
8 the order in the book required to be kept by him or her for recording  
9 affidavits, statements, consents and licenses, and when so recorded the  
10 order shall become a public record and available in any prosecution  
11 under this section. A person who shall solemnize a marriage in violation  
12 of this section shall be guilty of a misdemeanor and upon conviction  
13 thereof shall be punished by a fine of fifty dollars for each offense,  
14 and in addition thereto, his or her right to solemnize a marriage shall  
15 be suspended for ninety days.

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

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

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