

# STATE OF NEW YORK

1137--B

2017-2018 Regular Sessions

## IN ASSEMBLY

January 10, 2017

Introduced by M. of A. GALEF, JAFFEE, BLAKE, HYNDMAN, SEPULVEDA, D'URSO, L. ROSENTHAL, GOTTFRIED, DICKENS, HARRIS, M. G. MILLER, LAVINE, PAULIN, SIMOTAS, SIMON -- Multi-Sponsored by -- M. of A. DINOWITZ, LUPARDO, McDONOUGH, STECK, THIELE, WRIGHT -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- 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:

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 one-day marriage officiant, 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 one-day marriage officiant 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 one-day marriage officiant 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 one-day marriage officiant 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

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

LBD02161-05-8

1 people called friends or quakers; nor marriages among the people of any  
2 other denominations having as such any particular mode of solemnizing  
3 marriages; but such marriages must be solemnized in the manner hereto-  
4 fore used and practiced in their respective societies or denominations,  
5 and marriages so solemnized shall be as valid as if this article had not  
6 been enacted.

7 § 3. Section 13 of the domestic relations law, as amended by chapter  
8 95 of the laws of 2011, is amended to read as follows:

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

30 § 4. Section 13-b of the domestic relations law, as amended by chapter  
31 35 of the laws of 2017, is amended to read as follows:

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

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

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

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

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