

STATE OF NEW YORK

1137--D

2017-2018 Regular Sessions

IN ASSEMBLY

January 10, 2017

Introduced by M. of A. GALEF, JAFFEE, BLAKE, HYNDMAN, D'URSO, L. ROSEN-
THAL, GOTTFRIED, DICKENS, 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 -- reported and referred to the Committee on Ways
and Means -- committee discharged, bill amended, ordered reprinted as
amended and recommitted to said committee -- again reported from said
committee with amendments, ordered reprinted as amended and recommit-
ted 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 Assem-
bly, do enact as follows:

1 Section 1. Subdivisions 1, 1-a, 2 and 3-a of section 11 of the domes-
2 tic relations law, subdivision 1 as amended by chapter 95 of the laws of
3 2011, subdivision 1-a as amended by chapter 96 of the laws of 2011,
4 subdivision 2 as amended by section 1 of subpart E of part B of chapter
5 20 of the laws of 2015, and subdivision 3-a as added by chapter 450 of
6 the laws of 2014, are amended and a new subdivision 3-b is added to read
7 as follows:
8 1. A clergyman or minister of any religion, or by the senior leader,
9 or any of the other leaders, of The Society for Ethical Culture in the
10 city of New York, having its principal office in the borough of Manhat-
11 tan, or by the leader of The Brooklyn Society for Ethical Culture,
12 having its principal office in the borough of Brooklyn of the city of
13 New York, or of the Westchester Ethical Society, having its principal
14 office in Westchester county, or of the Ethical Culture Society of Long

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

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1 Island, having its principal office in Nassau county, or of the River-
2 dale-Yonkers Ethical Society having its principal office in Bronx coun-
3 ty, or by the leader of any other Ethical Culture Society affiliated
4 with the American Ethical Union; provided that no clergyman or minister
5 as defined in section two of the religious corporations law, or Society
6 for Ethical Culture leader shall be required to solemnize any marriage
7 when acting in his or her capacity under this subdivision. [~~1-a.~~] A
8 refusal by a clergyman or minister as defined in section two of the
9 religious corporations law, or Society for Ethical Culture leader to
10 solemnize any marriage under this subdivision shall not create a civil
11 claim or cause of action or result in any state or local government
12 action to penalize, withhold benefits or discriminate against such cler-
13 gyman or minister[~~+~~]; or,

14 2. The current or a former governor, a mayor of a village, a county
15 executive of a county, or a mayor, recorder, city magistrate, police
16 justice or police magistrate of a city, a former mayor or the city clerk
17 of a city of the first class of over one million inhabitants or any of
18 his or her deputies or not more than four regular clerks, designated by
19 him or her for such purpose as provided in section eleven-a of this
20 article, except that in cities which contain more than one hundred thou-
21 sand and less than one million inhabitants, a marriage shall be solem-
22 nized by the mayor, or police justice, and by no other officer of such
23 city, except as provided in subdivisions one and three of this
24 section[~~+~~]; or,

25 3-a. A judge or peacemaker judge of any Indian tribal court, a chief,
26 a headman, or any member of any tribal council or other governing body
27 of any nation, tribe or band of Indians in this state duly designated by
28 such body for the purpose of officiating at marriages, or any other
29 persons duly designated by such body, in keeping with the culture and
30 traditions of any such nation, tribe or band of Indians in this state,
31 to officiate at marriages[~~+~~]; or,

32 3-b. A one-day marriage officiant, as designated by the secretary of
33 state pursuant to section one hundred ten of the executive law; or,

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

36 § 12. Marriage, how solemnized. No particular form or ceremony is
37 required when a marriage is solemnized as herein provided by a clergyman
38 [~~or~~], magistrate, or one-day marriage officiant as designated by the
39 secretary of state pursuant to section one hundred ten of the executive
40 law but the parties must solemnly declare in the presence of a clergyman
41 [~~or~~], magistrate, or one-day marriage officiant and the attending
42 witness or witnesses that they take each other as [~~husband and wife~~]
43 spouses. In every case, at least one witness beside the clergyman [~~or~~],
44 magistrate, or one-day marriage officiant must be present at the ceremo-
45 ny.

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

54 § 3. Section 13 of the domestic relations law, as amended by chapter
55 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 one-day marriage officiant 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 35 of the laws of 2017, 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 one-day marriage officiant, 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 at least seventeen 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, upon making written affirmative findings under subdivision three of section fifteen of this article, make an order authorizing the immediate solemnization of the marriage and upon filing such order with the clergyman ~~[or]~~, magistrate, or one-day marriage officiant 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 one day marriage officiant may solemnize such marriage, or such judge may take such acknowledgment as the case may be, without waiting for such three day period and twenty-four hour period to elapse.

1 The clergyman, magistrate [~~ex~~], judge, or one-day marriage officiant, as
2 designated by the secretary of state pursuant to section one hundred ten
3 of the executive law, must file such order with the town or city clerk
4 who issued the license within five days after the marriage is solemn-
5 ized. Such town or city clerk must record and index the order in the
6 book required to be kept by him or her for recording affidavits, state-
7 ments, consents and licenses, and when so recorded the order shall
8 become a public record and available in any prosecution under this
9 section. A person who shall solemnize a marriage in violation of this
10 section shall be guilty of a misdemeanor and upon conviction thereof
11 shall be punished by a fine of fifty dollars for each offense, and in
12 addition thereto, his or her right to solemnize a marriage shall be
13 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 one-day marriage officiant. The secretary, or
17 his or her designee, shall issue one-day marriage officiant designations
18 to laypersons over the age of eighteen regardless of state residence who
19 intend to perform a marriage solemnization ceremony within the state.
20 Such designations shall only be issued after an applicant remits a
21 completed application form and fee, both to be determined by the secre-
22 tary. The application form shall require the following information and
23 be accompanied by legal proof of identification. From the applicant
24 requesting designation: applicant name, date of birth, legal address,
25 email address and telephone number. The application form shall also
26 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.