

STATE OF NEW YORK

5858--A

2017-2018 Regular Sessions

IN SENATE

May 3, 2017

Introduced by Sen. RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- 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 35 of the laws of 2017, 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 at least seventeen
46 years of age, the judge of the family court of such county, if it shall
47 appear from an examination of the license and any other proofs submitted
48 by the parties that one of the parties is in danger of imminent death,
49 or by reason of other emergency public interest will be promoted there-
50 by, or that such delay will work irreparable injury or great hardship
51 upon the contracting parties, or one of them, may, upon making written
52 affirmative findings under subdivision three of section fifteen of this
53 article, make an order authorizing the immediate solemnization of the
54 marriage and upon filing such order with the clergyman ~~[or]~~, magistrate,
55 or one-day marriage officiant performing the marriage ceremony, or if
56 the marriage is to be solemnized by written contract, with the judge

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

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

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

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