

# STATE OF NEW YORK

5858--B

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 -- 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. 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  
15 Island, having its principal office in Nassau county, or of the River-  
16 dale-Yonkers Ethical Society having its principal office in Bronx coun-  
17 ty, or by the leader of any other Ethical Culture Society affiliated  
18 with the American Ethical Union; provided that no clergyman or minister  
19 as defined in section two of the religious corporations law, or Society  
20 for Ethical Culture leader shall be required to solemnize any marriage

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

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1 when acting in his or her capacity under this subdivision. [~~1-a.~~] A  
 2 refusal by a clergyman or minister as defined in section two of the  
 3 religious corporations law, or Society for Ethical Culture leader to  
 4 solemnize any marriage under this subdivision shall not create a civil  
 5 claim or cause of action or result in any state or local government  
 6 action to penalize, withhold benefits or discriminate against such cler-  
 7 gyman or minister[~~+~~]; or,

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

19 3-a. A judge or peacemaker judge of any Indian tribal court, a chief,  
 20 a headman, or any member of any tribal council or other governing body  
 21 of any nation, tribe or band of Indians in this state duly designated by  
 22 such body for the purpose of officiating at marriages, or any other  
 23 persons duly designated by such body, in keeping with the culture and  
 24 traditions of any such nation, tribe or band of Indians in this state,  
 25 to officiate at marriages[~~+~~]; or,

26 3-b. A one-day marriage officiant, as designated by the secretary of  
 27 state pursuant to section one hundred ten of the executive law; or,

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

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

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

48 § 3. Section 13 of the domestic relations law, as amended by chapter  
 49 95 of the laws of 2011, is amended to read as follows:

50 § 13. Marriage licenses. It shall be necessary for all persons  
 51 intended to be married in New York state to obtain a marriage license  
 52 from a town or city clerk in New York state and to deliver said license,  
 53 within sixty days, to the clergyman [~~or~~], magistrate, or one-day  
 54 marriage officiant as designated by the secretary of state pursuant to  
 55 section one hundred ten of the executive law who is to officiate before  
 56 the marriage ceremony may be performed. In case of a marriage contracted

1 pursuant to subdivision four of section eleven of this chapter, such  
2 license shall be delivered to the judge of the court of record before  
3 whom the acknowledgment is to be taken. If either party to the marriage  
4 resides upon an island located not less than twenty-five miles from the  
5 office or residence of the town clerk of the town of which such island  
6 is a part, and if such office or residence is not on such island such  
7 license may be obtained from any justice of the peace residing on such  
8 island, and such justice, in respect to powers and duties relating to  
9 marriage licenses, shall be subject to the provisions of this article  
10 governing town clerks and shall file all statements or affidavits  
11 received by him while acting under the provisions of this section with  
12 the town clerk of such town. No application for a marriage license shall  
13 be denied on the ground that the parties are of the same, or a differ-  
14 ent, sex.

15 § 4. Section 13-b of the domestic relations law, as amended by chapter  
16 35 of the laws of 2017, is amended to read as follows:

17 § 13-b. Time within which marriage may be solemnized. A marriage shall  
18 not be solemnized within twenty-four hours after the issuance of the  
19 marriage license, unless authorized by an order of a court of record as  
20 hereinafter provided, nor shall it be solemnized after sixty days from  
21 the date of the issuance of the marriage license unless authorized  
22 pursuant to section three hundred fifty-four-d of the executive law.  
23 Every license to marry hereafter issued by a town or city clerk, in  
24 addition to other requirements specified by this chapter, must contain a  
25 statement of the day and the hour the license is issued and the period  
26 during which the marriage may be solemnized. It shall be the duty of the  
27 clergyman ~~[or]~~, magistrate, or one-day marriage officiant, as designated  
28 by the secretary of state pursuant to section one hundred ten of the  
29 executive law, performing the marriage ceremony, or if the marriage is  
30 solemnized by written contract, of the judge before whom the contract is  
31 acknowledged, to annex to or endorse upon the marriage license the date  
32 and hour the marriage is solemnized. A judge or justice of the supreme  
33 court of this state or the county judge of the county in which either  
34 party to be married resides, or if such party is at least seventeen  
35 years of age, the judge of the family court of such county, if it shall  
36 appear from an examination of the license and any other proofs submitted  
37 by the parties that one of the parties is in danger of imminent death,  
38 or by reason of other emergency public interest will be promoted there-  
39 by, or that such delay will work irreparable injury or great hardship  
40 upon the contracting parties, or one of them, may, upon making written  
41 affirmative findings under subdivision three of section fifteen of this  
42 article, make an order authorizing the immediate solemnization of the  
43 marriage and upon filing such order with the clergyman ~~[or]~~, magistrate,  
44 or one-day marriage officiant performing the marriage ceremony, or if  
45 the marriage is to be solemnized by written contract, with the judge  
46 before whom the contract is acknowledged, such clergyman ~~[or]~~, magis-  
47 trate, or one day marriage officiant may solemnize such marriage, or  
48 such judge may take such acknowledgment as the case may be, without  
49 waiting for such three day period and twenty-four hour period to elapse.  
50 The clergyman, magistrate ~~[or]~~, judge, or one-day marriage officiant, as  
51 designated by the secretary of state pursuant to section one hundred ten  
52 of the executive law, must file such order with the town or city clerk  
53 who issued the license within five days after the marriage is solem-  
54 nized. Such town or city clerk must record and index the order in the  
55 book required to be kept by him or her for recording affidavits, state-  
56 ments, consents and licenses, and when so recorded the order shall

1 become a public record and available in any prosecution under this  
2 section. A person who shall solemnize a marriage in violation of this  
3 section shall be guilty of a misdemeanor and upon conviction thereof  
4 shall be punished by a fine of fifty dollars for each offense, and in  
5 addition thereto, his or her right to solemnize a marriage shall be  
6 suspended for ninety days.

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

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

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