

# STATE OF NEW YORK

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1430

2019-2020 Regular Sessions

## IN SENATE

January 14, 2019

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Introduced by Sens. RITCHIE, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

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 domestic relations law, subdivision 1 as amended by chapter 95 of the laws of 2 2011, subdivision 1-a as amended by chapter 96 of the laws of 2011, 3 subdivision 2 as amended by section 1 of subpart E of part B of chapter 4 20 of the laws of 2015, and subdivision 3-a as added by chapter 450 of 5 the laws of 2014, are amended and a new subdivision 3-b is added to read 6 as follows:

7  
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 Manhattan, or by the leader of The Brooklyn Society for Ethical Culture, 11 having its principal office in the borough of Brooklyn of the city of 12 New York, or of the Westchester Ethical Society, having its principal 13 office in Westchester county, or of the Ethical Culture Society of Long 14 Island, having its principal office in Nassau county, or of the Riverdale-Yonkers Ethical Society having its principal office in Bronx county, 15 or by the leader of any other Ethical Culture Society affiliated 16 with the American Ethical Union; provided that no clergyman or minister 17 as defined in section two of the religious corporations law, or Society 18 for Ethical Culture leader shall be required to solemnize any marriage 19 when acting in his or her capacity under this subdivision. [~~1-a.~~] A 20 refusal by a clergyman or minister as defined in section two of the 21 religious corporations law, or Society for Ethical Culture leader to 22 solemnize any marriage under this subdivision shall not create a civil 23 claim or cause of action or result in any state or local government 24 25

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

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1 action to penalize, withhold benefits or discriminate against such cler-  
2 gyman or minister[~~+~~]; or,

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

14 3-a. A judge or peacemaker judge of any Indian tribal court, a chief,  
15 a headman, or any member of any tribal council or other governing body  
16 of any nation, tribe or band of Indians in this state duly designated by  
17 such body for the purpose of officiating at marriages, or any other  
18 persons duly designated by such body, in keeping with the culture and  
19 traditions of any such nation, tribe or band of Indians in this state,  
20 to officiate at marriages[~~+~~]; or,

21 3-b. A one-day marriage officiant, as designated by the secretary of  
22 state pursuant to section one hundred ten of the executive law; or,

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

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

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

43 § 3. Section 13 of the domestic relations law, as amended by chapter  
44 95 of the laws of 2011, is amended to read as follows:

45 § 13. Marriage licenses. It shall be necessary for all persons  
46 intended to be married in New York state to obtain a marriage license  
47 from a town or city clerk in New York state and to deliver said license,  
48 within sixty days, to the clergyman [~~or~~], magistrate, or one-day  
49 marriage officiant as designated by the secretary of state pursuant to  
50 section one hundred ten of the executive law who is to officiate before  
51 the marriage ceremony may be performed. In case of a marriage contracted  
52 pursuant to subdivision four of section eleven of this chapter, such  
53 license shall be delivered to the judge of the court of record before  
54 whom the acknowledgment is to be taken. If either party to the marriage  
55 resides upon an island located not less than twenty-five miles from the  
56 office or residence of the town clerk of the town of which such island

1 is a part, and if such office or residence is not on such island such  
2 license may be obtained from any justice of the peace residing on such  
3 island, and such justice, in respect to powers and duties relating to  
4 marriage licenses, shall be subject to the provisions of this article  
5 governing town clerks and shall file all statements or affidavits  
6 received by him while acting under the provisions of this section with  
7 the town clerk of such town. No application for a marriage license shall  
8 be denied on the ground that the parties are of the same, or a differ-  
9 ent, sex.

10 § 4. Section 13-b of the domestic relations law, as amended by chapter  
11 35 of the laws of 2017, is amended to read as follows:

12 § 13-b. Time within which marriage may be solemnized. A marriage shall  
13 not be solemnized within twenty-four hours after the issuance of the  
14 marriage license, unless authorized by an order of a court of record as  
15 hereinafter provided, nor shall it be solemnized after sixty days from  
16 the date of the issuance of the marriage license unless authorized  
17 pursuant to section three hundred fifty-four-d of the executive law.  
18 Every license to marry hereafter issued by a town or city clerk, in  
19 addition to other requirements specified by this chapter, must contain a  
20 statement of the day and the hour the license is issued and the period  
21 during which the marriage may be solemnized. It shall be the duty of the  
22 clergyman ~~[or]~~, magistrate, or one-day marriage officiant, as designated  
23 by the secretary of state pursuant to section one hundred ten of the  
24 executive law, performing the marriage ceremony, or if the marriage is  
25 solemnized by written contract, of the judge before whom the contract is  
26 acknowledged, to annex to or endorse upon the marriage license the date  
27 and hour the marriage is solemnized. A judge or justice of the supreme  
28 court of this state or the county judge of the county in which either  
29 party to be married resides, or if such party is at least seventeen  
30 years of age, the judge of the family court of such county, if it shall  
31 appear from an examination of the license and any other proofs submitted  
32 by the parties that one of the parties is in danger of imminent death,  
33 or by reason of other emergency public interest will be promoted there-  
34 by, or that such delay will work irreparable injury or great hardship  
35 upon the contracting parties, or one of them, may, upon making written  
36 affirmative findings under subdivision three of section fifteen of this  
37 article, make an order authorizing the immediate solemnization of the  
38 marriage and upon filing such order with the clergyman ~~[or]~~, magistrate,  
39 or one-day marriage officiant performing the marriage ceremony, or if  
40 the marriage is to be solemnized by written contract, with the judge  
41 before whom the contract is acknowledged, such clergyman ~~[or]~~, magis-  
42 trate, or one day marriage officiant may solemnize such marriage, or  
43 such judge may take such acknowledgment as the case may be, without  
44 waiting for such three day period and twenty-four hour period to elapse.  
45 The clergyman, magistrate ~~[or]~~, judge, or one-day marriage officiant, as  
46 designated by the secretary of state pursuant to section one hundred ten  
47 of the executive law, must file such order with the town or city clerk  
48 who issued the license within five days after the marriage is solemn-  
49 ized. Such town or city clerk must record and index the order in the  
50 book required to be kept by him or her for recording affidavits, state-  
51 ments, consents and licenses, and when so recorded the order shall  
52 become a public record and available in any prosecution under this  
53 section. A person who shall solemnize a marriage in violation of this  
54 section shall be guilty of a misdemeanor and upon conviction thereof  
55 shall be punished by a fine of fifty dollars for each offense, and in

1 addition thereto, his or her right to solemnize a marriage shall be  
2 suspended for ninety days.

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

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

26 § 6. This act shall take effect on the ninetieth day after it shall  
27 have become a law. Effective immediately, the addition, amendment  
28 and/or repeal of any rule or regulation necessary for the implementation  
29 of this act on its effective date are authorized to be made and  
30 completed on or before such effective date.