

STATE OF NEW YORK

739--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. BIAGGI, 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. 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
21 when acting in his or her capacity under this subdivision. [~~1-a.~~] A

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

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

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

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

25 3-b. A one-day marriage officiant, as designated by the secretary of
26 state pursuant to section one hundred ten of the executive law; or,

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

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

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

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

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

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

14 § 4. Section 13-b of the domestic relations law, as amended by chapter
15 306 of the laws of 2021, is amended to read as follows:

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

1 shall be punished by a fine of fifty dollars for each offense, and in
2 addition thereto, his or her right to solemnize a marriage shall be
3 suspended for ninety days.

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

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

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