STATE OF NEW YORK

2181

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. L. ROSENTHAL, CARROLL, ZINERMAN, LUNSFORD -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to permitting the witnessing and solemnization of a marriage ceremony and the issuance of a marriage license application or marriage license to be performed utilizing audio-video technology

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 12 of the domestic relations law, as amended by chapter 798 of the laws of 2022, is amended to read as follows:

§ 12. Marriage, how solemnized. **1.** No particular form or ceremony is required when a marriage is solemnized as herein provided by a clergyman, magistrate, or one-day marriage officiant as designated by the secretary of state pursuant to section one hundred ten of the executive law but the parties must solemnly declare in the presence of a clergyman, magistrate, or one-day marriage officiant and the attending witness or witnesses that they take each other as spouses. In every case, at least one witness beside the clergyman, magistrate, or one-day marriage officiant must be present at the ceremony.

2. The witnessing or solemnizing of the ceremony is authorized to be performed utilizing audio-video technology provided that the following conditions are met:

(a) the couple seeking the marriage services, shall present valid photo identification to verify identity whenever required by law during the video conference;

(b) the video conference shall allow for direct interaction between the couple and the witness or witnesses and the person solemnizing the marriage;

(c) the couple shall affirmatively represent that they are physically situated in the jurisdiction where the marriage is legally allowed to occur within the state;

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

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(d) the couple shall transmit by fax or electronic means a legible copy of the signed marriage license directly to the witness or witnesses and the person solemnizing the marriage on the same date it was signed;

(e) the witness or witnesses and the person solemnizing the marriage shall sign the transmitted copy of the marriage license and transmit the same back to the person responsible for the marriage license; and

(f) to the extent practicable, all parties shall use their best efforts to ensure the marriage license is transmitted in the most confidential manner and information will not be released to any third party not associated with the marriage license and marriage ceremony.

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

§ 2. Section 13 of the domestic relations law, as amended by chapter 798 of the laws of 2022, is amended to read as follows:

§ 13. Marriage licenses. 1. 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, 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~~] article, 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.

2. Any issuance of a marriage license application or marriage license is authorized to be performed utilizing audio-video technology provided that the following conditions are met:

(a) the couple seeking the marriage services, shall present valid photo identification to verify identity whenever required by law during the video conference;

(b) the video conference shall allow for direct interaction between the couple and the town or city clerk;

(c) the couple shall affirmatively represent that they are physically situated in the jurisdiction of the town or city clerk;

(d) the couple shall transmit by fax or electronic means a legible copy of the signed document directly to the town or city clerk on the same date it was signed;

(e) the town or city clerk shall sign the transmitted copy of the document and transmit the same back to the person responsible for the document; and

(f) to the extent practicable, all parties will use their best efforts to ensure the document is transmitted in the most confidential manner and information will not be released to any third party not associated with the marriage license.

The electronic signed copy of the marriage license application or marriage license shall be the official document for purposes of this chapter. Local town and city clerks shall provide guidance related to how marriage licensure applications and issuance is implemented in the jurisdiction of such clerk.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that the amendments made to sections 12 and 13 of the domestic relations law, made by sections one and two of this act, respectively, shall take effect on the same date and in the same manner as chapter 798 of the laws of 2022, takes effect. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.