

CHAPTER 210
FORMERLY
HOUSE BILL NO. 241
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO SOLEMNIZATION OF MARRIAGES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 106, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 106. ~~Solemnization of marriages; production of license; penalty; registration of persons authorized to solemnize marriages.~~ Individuals authorized to solemnize marriages; requirements to solemnize marriage; penalty.

(a) ~~A clergyperson or minister of any religion, current and former Judges of this State's Supreme Court, Superior Court, Family Court, Court of Chancery, Court of Common Pleas, Justice of the Peace Court, federal Judges, federal Magistrates, clerks of the peace of various counties and current and former judges from other jurisdictions with written authorization by the clerk of the peace from the county in Delaware where the ceremony is to be performed may solemnize marriages between persons who may lawfully enter into the matrimonial relation. The Clerk of the Peace in each county for good cause being shown may:~~

~~(1) Allow by written permit within that Clerk's respective county, any duly sworn member of another state's judiciary, to solemnize marriages in the State between persons who may lawfully enter into the matrimonial relation.~~

~~(2) Allow by written permit within that Clerk's respective county, the Clerk of the Peace from another county within the State to solemnize marriages in the State between persons who may lawfully enter into the matrimonial relation.~~

(1) For purposes of this subsection, "chief executive officer" means the mayor of an incorporated municipality. If an incorporated municipality does not have a mayor, then "chief executive officer" means the president of the legislative body of the incorporated municipality. If an incorporated municipality does not have a mayor or a president of the legislative body, then "chief executive officer" means the presiding officer of the legislative body of the incorporated municipality.

(2) The following individuals over 18 years of age may solemnize a marriage between individuals who may lawfully enter into the matrimonial relation:

a. A clergyperson or minister of any religion.

b. A current or former judge of this State's Supreme Court, Superior Court, Family Court, Court of Chancery, Court of Common Pleas, or Justice of the Peace Court.

c. A current or former federal judge or magistrate with jurisdiction over this State.

d. A current or former Clerk of the Peace of a county of this State, within the county in which the Clerk holds or held that office.

e. The chief executive officer of an incorporated municipality of this State, within the corporate limits of that municipality.

(3) For good cause being shown, the Clerk of the Peace for the county in which a marriage is to be performed may allow by written authorization all of the following to solemnize a marriage between individuals who may lawfully enter into the matrimonial relation:

a. A current or former judge of another state's judiciary.

b. A current or former federal judge or magistrate with jurisdiction over a state other than this State.

c. A current Clerk of the Peace from another county within this State.

~~(4) Within the limits of any incorporated municipality, the Mayor thereof may solemnize marriages between persons who may lawfully enter into matrimonial relation. Marriages shall be solemnized in the~~

presence of at least 2 reputable witnesses who are at least 18 years of age and who shall sign the certificate of marriage as prescribed by this chapter. Marriages may ~~also~~ be solemnized or contracted according to the forms and usages of any religious society or in an entirely secular manner. No marriage shall be solemnized or contracted without the production of a license issued pursuant to this chapter.

~~(b) For purposes of this section, the words "resident of this State" shall include the son or daughter of a person who has been domiciled within the State for 1 year or more, notwithstanding the actual place of residence of the son or daughter immediately prior to the date of the marriage.~~

(c) In the case of absence or disability of the duly elected Clerk of the Peace, the chief deputy or, if there is no chief deputy, a deputy or acting deputy employed in the office of and appointed by the Clerk of the Peace, shall be authorized to solemnize marriages.

(d) Whoever, not being authorized by this section, solemnizes a marriage, shall be fined \$100, and in default of the payment of such fine shall be imprisoned not more than 30 days, and such marriage shall be void, unless it is in other respects lawful and is consummated with the full belief of either of the parties in its validity.

(e) Other than as provided in this subsection, nothing in this section shall be construed to require any ~~person (including individual, including any~~ clergyperson or minister of any religion) religion, authorized to solemnize a marriage to solemnize any marriage, and no such authorized ~~person~~ individual who fails or refuses for any reason to solemnize a marriage shall be subject to any fine or other penalty for such failure or refusal. Notwithstanding the preceding sentence, a ~~clerk of the peace~~ Clerk of the Peace who issues a marriage license, or a deputy thereof, shall be required to perform a solemnization of such marriage if requested by the applicants for such license.

Approved April 01, 2016