

H.246

Introduced by Representatives Devereux of Mount Holly, Townsend of South
Burlington, Brumsted of Shelburne, Gannon of Wilmington,
Gardner of Richmond, Hubert of Milton, Kitzmiller of
Montpelier, LaClair of Barre Town, Lewis of Berlin, and Weed
of Enosburgh

Referred to Committee on

Date:

Subject: Vital records; marriage; marriage by proxy

Statement of purpose of bill as introduced: This bill proposes to permit
marriage by proxy, teleconference, or other technology for members of the
Armed Forces serving overseas.

An act relating to marriage by proxy, teleconference, or other technology

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 5131a is added to read

§ 5131a. MARRIAGE BY PROXY, TELECONFERENCE, OR OTHER

TECHNOLOGY

(a) Except if authorized under subsection (b) of this section:

1 (1) In order for a marriage to be validly solemnized in Vermont, both
2 parties to a proposed civil marriage must personally appear within the State
3 before the individual solemnizing the marriage at the time of solemnization.

4 (2) If both parties did not personally appear, the civil marriage is
5 voidable and may be annulled pursuant to 15 V.S.A. chapter 11, subchapter 1.

6 (b)(1) Upon application by a member of the U.S. Armed Forces, as defined
7 in 38 U.S.C. § 101(10), on assignment outside Vermont for a period exceeding
8 three months, the town clerk from which the marriage license is obtained shall
9 authorize the service member to appear by proxy, teleconference, or other
10 technology if the application satisfies the requirements of this subsection.

11 (2) An application under this subsection shall be submitted to the town
12 clerk not less than ten days prior to solemnization, and consist of the following
13 materials:

14 (A) a written and notarized statement from the applicant's
15 commanding officer stating that he or she is on active assignment for a period
16 exceeding three months, and is unable to return to Vermont to be married; and

17 (B) a written and notarized statement signed by the applicant
18 expressing interest in being married in accordance with the laws of Vermont
19 and that includes the following information:

20 (i) the names of the parties to the proposed marriage;

21 (ii) the name of the individual solemnizing the marriage;

1 (iii) the circumstances under which the applicant proposes to
2 appear, whether by proxy, teleconference, or other technology; and

3 (iv) if requesting marriage by proxy, the name of the individual
4 proposed to act as proxy, who shall be a competent adult.

5 (3) A document or signature required in subdivision (2) of this
6 subsection may not be denied legal effect or enforceability solely because it is
7 in electronic form.

8 (4) If the town clerk denies an application under this subsection, either
9 party to the proposed marriage may petition the Probate Division of the
10 Superior Court, which shall review the application and relevant evidence de
11 novo to determine whether marriage by proxy, teleconference, or other
12 technology is warranted.

13 (c) An individual shall not solemnize a marriage in Vermont unless:

14 (1) at the time of solemnization, both parties to the proposed marriage
15 personally appear within the State before the individual solemnizing the
16 marriage; or

17 (2) for a marriage by proxy, teleconference, or other electronic means,
18 the marriage is conducted in accordance with the terms of an application
19 approved by a town clerk pursuant to subsection (b) of this section.

1 Sec. 4. 15 V.S.A. § 515 is amended to read:

2 § 515. PARTY PHYSICALLY INCAPACITATED OR NOT PRESENT

3 (a) A suit to annul a civil marriage on the ground of the physical incapacity
4 of one of the parties shall be maintained only by the injured party against the
5 party whose incapacity is alleged ~~and~~.

6 (b) A suit to annul a civil marriage on the ground of a violation of
7 18 V.S.A. § 5131a (marriage by proxy, teleconference, or other technology)
8 may be brought by either party.

9 (c) A suit under this section shall be brought within two years from the
10 solemnization of the marriage.

11 Sec. 5. EFFECTIVE DATE; APPLICABILITY

12 (a) This act shall take effect on July 1, 2017.

13 (b) The provisions of 18 V.S.A. § 5131a(a) added in Sec. 1 of this act shall
14 not alter the status under Vermont law, including common law, of a civil
15 marriage solemnized or attempted to be solemnized prior to the effective date
16 of this act.