

The main, 101-page vital records bill is H.111, and is available at <http://legislature.vermont.gov/bill/status/2018/H.111>

The marriage solemnization bill is H.107, and is available at <http://legislature.vermont.gov/bill/status/2018/H.107>

The change of name bill is H.120, and is available at <http://legislature.vermont.gov/bill/status/2018/H.120>

Best,
Helena

From: Helena Gardner
Sent: Friday, January 20, 2017 8:43 AM
To: 'Winters, Chris'; 'McCoy, Richard'; Bennington Town Clerk's Office; Englander, David; Marshall, Tanya; Kilgore, Jeffrey; 'Jewell, Stacy' (townclerk@stjvt.com); 'khorn@vlct.org'; 'Karen Richard'
Cc: Maida Townsend; Dennis Devereux
Subject: RE: proof of ordainment

Reps. Devereux and Townsend asked me to resend you the attached draft bill, which I circulated to most of you on Dec. 16, and which has been approved for introduction (it should be assigned an H.# shortly).

Pasted below my signature in black font is the explanation of the bill that I provided in my Dec. 16 transmittal email. Although the bill does not address the validity of internet ordinations, it does address some of the issues that Rich identified in his Wednesday evening email.

At this time, the sponsors are not sure whether the bill will be referred to the Judiciary Committee or the Gov Ops Committee, whether the committee to which it is referred will decide to address the issue of internet ordinations when reviewing the bill, or whether the bill will be folded into the larger vital records bill.

Let me know if you have any questions!
Best,
Helena

Attached is a draft bill to update laws related to marriage solemnization.

Although the bill has 6 sections, the heart of the bill is Sec. 1.

Sec. 1 amends 18 V.S.A. § 5144 to eliminate the 3 categories of clergy and replaces the term “clergy” with a non-denominational phrase (“ordained, licensed, or otherwise authorized spiritual leader within any faith”). By eliminating the 3 categories, spiritual leaders would be able to perform marriages in Vermont regardless of their state or country of residence, without being subject to the “lies wholly or in part in this State” test (for clergy residing in an adjoining state or

province) or the requirement to obtain special authorization from the Probate Division (for clergy residing in some other U.S. state or Canadian province).

Sec. 1 also designates the Sec'y of State as the government entity to answer questions about marriage solemnization.

The bill does not attempt to address the issue of internet ordinations.

Secs. 2–5 are cleanup or conforming changes. Sec. 6 provides for a July 1, 2017 effective date.

From: Winters, Chris [<mailto:chris.winters@sec.state.vt.us>]
Sent: Thursday, January 19, 2017 12:24 PM
To: 'McCoy, Richard'; Bennington Town Clerk's Office; Helena Gardner; Englander, David; Marshall, Tanya; Kilgore, Jeffrey; 'Jewell, Stacy' (townclerk@stjvt.com); 'khorn@vlct.org'; 'Karen Richard'
Subject: RE: proof of ordainment

Thanks for detailed response Rich. That's where we've ended up with our response as well. We do not verify/judge/assess the solemnizer, so I don't see why we would ask for proof of ordainment.

Chris

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From: McCoy, Richard [<mailto:Richard.McCoy@vermont.gov>]
Sent: Wednesday, January 18, 2017 6:03 PM
To: Bennington Town Clerk's Office <cbarbeau@BenningtonVT.org>; Winters, Chris <chris.winters@sec.state.vt.us>; Gardner, Helena <hgardner@leg.state.vt.us>; Englander, David <David.Englander@vermont.gov>; Marshall, Tanya <tanya.marshall@sec.state.vt.us>; Kilgore, Jeffrey <Jeffrey.Kilgore@vermont.gov>; 'Jewell, Stacy' (townclerk@stjvt.com) <townclerk@stjvt.com>; 'khorn@vlct.org' <khorn@vlct.org>; 'Karen Richard' <KRichard@colchestervt.gov>
Cc: McCoy, Richard <Richard.McCoy@vermont.gov>
Subject: RE: proof of ordainment

The Vital Records' Office receives calls about ordainment / solemnization. It has been extremely frustrating since the volume has grown in recent years. The calls fall into a couple of categories:

- **It is legal for me to solemnize a marriage? Am I recognized as an ordained church/ religious clergy?**

This is the most common question. It goes to what I raised in our workgroup – we receive calls and emails from people who pay \$10 or \$20 to become an “ordained” clergy member in the Church of the Big Lebowski or the Church of Flying Spaghetti Monster. (I’m not making these up, by the way!) And then in some cases, the couple calls or emails us later asking the same question – can this person marry us using their online ordainment?

The Health Department’s AAG ten years ago used to say “no” – that it had to be a church/religion with a brick and mortar presence within Vermont. When we were assigned a new AAG several years ago, that opinion shifted to be any religious organization regardless of a physical presence in VT was qualified. And even more recently (our current AAG), the position has shifted to be that the Health Department will not provide any legal advice on this subject nor make any determination as to what qualifies as a recognized religion or allowable to solemnize. In other words, our office today tells those who contact us that they need to consult their own attorney. That causes a lot of frustration because it leaves them with a big unknown about recognition of their marriage.

- **Is our marriage legal? It was performed by XXXXXX.**

This question comes in two subgroups. First, those couples who – for whatever reason – start to question the validity of their marriage based on the credentials of the “clergy.” In those cases, we quote the section of the law that they are legally married if they went through the appropriate steps and legitimately believe they were married and any deficiencies were not knowingly caused by them.

The other subgroup is cases in which one of the partners wants to see the marriage made null/avoid (as if it never happened). This happens more than you think. He/she will come to us and say that the “clergy” member was not qualified (say, because they paid \$10 to the New Life Internet Church to become a priest) and then argue that does not qualify under the statute. In these cases, we simply state that they need to consult their own attorney and we do not make any assessment as to whether the organization was qualified or not.

- **More rarely, we receive inquiries from other states and organizations. Does this marriage qualify as valid under your Vermont statutes since it was handled by a “clergy” member of a “fake religious organization?”**

Thankfully, these contacts are rare, but do happen. The marriage certificate is shared and used for many purposes and then is transferred and stored many times over the years. Since there is fraud with marriages, we do get the occasional calls asking us to verify the legitimacy of a marriage – sometimes just to say yes, the document is accurate, but other times to ask us if the marriage is valid (pointing us to questions raised about the solemnizer).

Again, we indicate that we do not assess the legitimacy of a solemnizer or his/her religious organization. And, we point to the statute about the couple being

married in the eyes of VT statute if they followed all the appropriate steps and didn't engage in anything fraudulent.

The Health Department does not have a position on what (if any) changes should be considered to the statute. Our only concern is that there is clarity and consistency so that we can answer questions from the public.

Thanks,

Rich

From: Bennington Town Clerk's Office [<mailto:cbarbeau@BenningtonVT.org>]
Sent: Wednesday, January 18, 2017 12:40 PM
To: Winters, Chris <chris.winters@sec.state.vt.us>; Gardner, Helena <hgardner@leg.state.vt.us>; McCoy, Richard <Richard.McCoy@vermont.gov>; Englander, David <David.Englander@vermont.gov>; Marshall, Tanya <Tanya.Marshall@sec.state.vt.us>; Kilgore, Jeffrey <Jeffrey.Kilgore@vermont.gov>; 'Jewell, Stacy' (townclerk@stjvt.com) <townclerk@stjvt.com>; 'khorn@vlct.org' <khorn@vlct.org>; 'Karen Richard' <KRichard@colchestervt.gov>
Subject: RE: proof of ordainment

Chris,

I agree with your thought that it probably wouldn't serve a purpose. As Stacy and I have mentioned, it is the filing of the license and errors we see, not necessarily whether they are, in fact, ordained. Not to mention, even if they aren't ordained, at this point it doesn't invalidate the marriage so therefore no need to confirm ordination.

Cassie

Cassandra Barbeau
Town Clerk
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find us on the web at <http://www.townofbennington.org/TOB/departments/town-clerk/>

Please note that this email message, along with any response or reply, is considered public record, and thus, subject to disclosure under the Vermont Public Records Law (1 V.S.A. §§ 315-320). Thank You.

From: Winters, Chris [<mailto:chris.winters@sec.state.vt.us>]
Sent: Wednesday, January 18, 2017 12:35 PM
To: Bennington Town Clerk's Office <cbarbeau@BenningtonVT.org>; Helena Gardner <HGardner@leg.state.vt.us>; McCoy, Richard <Richard.McCoy@vermont.gov>; David Englander <David.Englander@vermont.gov>; Marshall, Tanya

<tanya.marshall@sec.state.vt.us>; Kilgore, Jeffrey (Jeffrey.Kilgore@vermont.gov)
<Jeffrey.Kilgore@vermont.gov>; 'Jewell, Stacy' (townclerk@stjvt.com)
<townclerk@stjvt.com>; 'khorn@vlct.org' <khorn@vlct.org>; 'Karen Richard'
<KRichard@colchestervt.gov>

Subject: proof of ordainment

Hi All,

Any thoughts on clerks requiring proof of an online ordination before issuing a marriage license? I've heard the practice varies from town to town and I would be reluctant to say a clerk should ask for proof from anyone claiming to be ordained unless he/she asks for proof from all. Even then, I'm not sure what purpose it serves.

Thanks,

Chris

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