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AB-430 Marriage: solemnization. (2017-2018)

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Assembly Bill No. 430

CHAPTER 42

An act to amend Section 400 of the Family Code, relating to marriage, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 2017. Filed with Secretary of State July 10, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 430, Irwin. Marriage: solemnization.

Existing law enumerates persons who are authorized to solemnize a marriage, including judges and retired judges. Existing law prohibits a judge, elected official, or city clerk from accepting compensation for solemnizing a marriage. Existing law makes it a misdemeanor for a judge, justice, commissioner, or assistant commissioner of a court of this state to accept money or another thing of value for performing a marriage, but excepts the acceptance of a fee to perform a marriage on Saturday, Sunday, or a legal holiday.

This bill, to the extent not prohibited by law and provided that the compensation is reasonable, would authorize specified officials, including retired judges and retired commissioners, to accept compensation for solemnizing a marriage.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 400 of the Family Code, as amended by Section 1 of Chapter 528 of the Statutes of 2016, is amended to read:

400. (a) Although marriage is a personal relation arising out of a civil, and not a religious, contract, a marriage may be solemnized by a priest, minister, rabbi, or authorized person of any religious denomination who is 18 years of age or older. A person authorized by this subdivision shall not be required to solemnize a marriage that is contrary to the tenets of his or her faith. Any refusal to solemnize a marriage under this subdivision, either by an individual or by a religious denomination, shall not affect the tax-exempt status of any entity.

(b) Consistent with Section 94.5 of the Penal Code and provided that any compensation received is reasonable, including payment of actual expenses, a marriage may also be solemnized by any of the following persons:

(1) A judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record in this state.

(2) A judge or magistrate who has resigned from office.

(3) Any of the following judges or magistrates of the United States:

(A) A justice or retired justice of the United States Supreme Court.

(B) A judge or retired judge of a court of appeals, a district court, or a court created by an act of the United States Congress the judges of which are entitled to hold office during good behavior.

(C) A judge or retired judge of a bankruptcy court or a tax court.

(D) A United States magistrate or retired magistrate.

(c) Except as provided in subdivision (d), a marriage may also be solemnized by any of the following persons who are 18 years of age or older:

(1) A Member of the Legislature or constitutional officer of this state or a Member of Congress of the United States who represents a district within this state, or a former Member of the Legislature or constitutional officer of this state or a former Member of Congress of the United States who represented a district within this state.

(2) A person that holds or formerly held an elected office of a city, county, or city and county.

(3) A city clerk of a charter city or serving in accordance with subdivision (b) of Section 36501 of the Government Code, while that person holds office.

(d) (1) A person listed in subdivision (c) shall not accept compensation for solemnizing a marriage while holding office.

(2) A person listed in subdivision (c) shall not solemnize a marriage pursuant to this section if they have been removed from office due to committing an offense or have been convicted of an offense that involves moral turpitude, dishonesty, or fraud.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for couples in the state to have access to secular marriage ceremonies at a reasonable cost and at the earliest possible time, it is necessary for this act to take effect immediately.