

AMENDED IN ASSEMBLY APRIL 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2761

Introduced by Assembly Members ~~Steinorth and Low~~ Member Low

February 19, 2016

An act to amend Section 400 of, and to repeal Section 400.1 of, the Family Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2761, as amended, ~~Steinorth~~ Low. Marriage.

Existing law enumerates persons who are authorized to solemnize a marriage, including current Members of the Legislature, constitutional officers of this state, Members of Congress of the United States who represent a district within this state, elected mayors, *city clerks*, and county supervisors. *Existing law requires county supervisors, city clerks, and elected mayors to obtain and review from the county clerk all available instructions for marriage solemnization before the county supervisor, city clerk, or mayor first solemnizes a marriage.*

This bill would additionally authorize former Members of the Legislature and constitutional officers of this state, former Members of Congress of the United States who represented a district within this state, and current and former elected officials of a city, county, or city and county, to solemnize a marriage. *The bill would remove the requirement that county supervisors, city clerks, and elected mayors obtain and review all available instructions for marriage solemnization before first solemnizing a marriage.* The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 400 of the Family Code is amended to
2 read:

3 400. Although marriage is a personal relation arising out of a
4 civil, and not a religious, contract, a marriage may be solemnized
5 by any of the following who are 18 years of age or older:

6 (a) A priest, minister, rabbi, or authorized person of any religious
7 denomination. A person authorized by this subdivision shall not
8 be required to solemnize a marriage that is contrary to the tenets
9 of his or her faith. Any refusal to solemnize a marriage under this
10 subdivision, either by an individual or by a religious denomination,
11 shall not affect the tax-exempt status of any entity.

12 (b) A judge or retired judge, commissioner of civil marriages
13 or retired commissioner of civil marriages, commissioner or retired
14 commissioner, or assistant commissioner of a court of record in
15 this state.

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

17 (d) Any of the following judges or magistrates of the United
18 States:

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

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

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

25 (4) A United States magistrate or retired magistrate.

26 (e) A Member of the Legislature or constitutional officer of this
27 state or a Member of Congress of the United States who represents
28 a district within this state, or a former Member of the Legislature
29 or constitutional officer of this state or a former Member of
30 Congress of the United States who represented a district within
31 this state.

32 (f) A person that holds ~~on~~ or formerly held an elected office of
33 a city, county, or city and county. ~~The official shall obtain and~~
34 ~~review from the county clerk all available instructions for marriage~~
35 ~~solemnization before the official first solemnizes a marriage.~~

36 (g) A city clerk of a charter city or serving in accordance with
37 subdivision (b) of Section 36501 of the Government Code, while
38 that person holds office. ~~The city clerk shall obtain and review~~

- 1 ~~from the county clerk all available instructions for marriage~~
- 2 ~~solemnization before the city clerk first solemnizes a marriage.~~
- 3 SEC. 2. Section 400.1 of the Family Code is repealed.

O