

Solemnizing a Marriage

Reference Number: CTAS-394

Who Can Solemnize a Marriage?

The rite of matrimony may be solemnized by any of the persons listed in T.C.A. § 36-3-301:

1. All regular ministers, preachers, pastors, priests, rabbis and other religious leaders of every religious belief, more than eighteen (18) years of age, having the care of souls.
2. Current and former members of county legislative bodies.
3. County mayors/executives and former county mayors/executives.
4. Current and former judges and chancellors of this state, including federal judges and federal administrative law judges.
5. Current and former judges of general sessions courts.
6. Municipal court judges.
7. The governor.
8. The county clerk of each county, and former county clerks who occupied the office on or after July 1, 2014.
9. Current and former speakers of the senate and speakers of the house of representatives.
10. Mayors of municipalities.
11. Current and former members of the general assembly who have filed notice with the office of vital records. Former members must have filed notice with the office of vital records while serving the general assembly.
12. Law enforcement chaplains duly appointed by the heads of authorized state and local law enforcement agencies.
13. Members of municipal legislative bodies.
14. Notaries Public.

The statute provides that in order to solemnize the rite of matrimony a minister, preacher, pastor, priest, rabbi or other spiritual leader must be ordained or otherwise designated in conformity with the customs of a church, temple or other religious group or organization, and such customs must provide for ordination or designation by a considered, deliberate and responsible act. T.C.A. § 36-3-301(a)(2). Courts look to the tenets of the particular religion to determine whether a particular person is a regular minister or other spiritual leader having the care of souls. *Op. Tenn. Att'y Gen. 14-90 (9/30/14)*. The county clerk has neither the authority nor the duty to examine the qualifications of persons seeking to solemnize the rite of matrimony. *Op. Tenn. Att'y Gen. 97-139 (10/9/97)*. The county clerk cannot require proof that an officiant is, in fact, a minister or other authorized person. *Op. Tenn. Att'y Gen. 87-151 (9/17/87)*.

Ordinarily, elected officials are not authorized to act outside the jurisdiction from which they were elected. *See Op. Tenn. Att'y Gen. 85-189 (6/10/85)* (under prior law, elected officials had no jurisdiction to perform marriages outside their jurisdiction). However, in 1997 the General Assembly authorized all elected officials and former officials who are authorized to perform marriages to do so in any county in the State of Tennessee. T.C.A. § 36-3-301(i).

For marriage purposes, the several judges of the United States courts, including United States magistrates and United States bankruptcy judges, who are citizens of Tennessee are deemed to be judges of this state. However, the term "former judges" does not include any judge who has been convicted of a felony or who has been removed from office. T.C.A. § 36-3-301(a). The term "retired judges of this state" includes persons who served as judges of any municipal or county court in any county which has adopted a metropolitan form of government and persons who served as county judges (judges of the quarterly county court) prior to the 1978 constitutional amendments. T.C.A. § 36-3-301(e). Also, any person who was a member of a quarterly county court on August 1, 1984 can perform marriages. T.C.A. § 17-1-206.

All judges, including city judges, are included among the officials who may solemnize marriages. A city judge may perform a marriage in any county in Tennessee, regardless of whether the judge was elected or appointed. T.C.A. § 36-3-301(k).

Deputy county clerks who are duly authorized by the county clerk have the power to perform marriage ceremonies, under the authority granted under T.C.A. § 18-1-108(4). *Op. Tenn. Att'y Gen. 85-243 (9/18/85)*.