

Notary public, solemnizing relative's marriage

Number: AGO 91-70

Date: January 18, 1996

Subject:
Notary public, solemnizing relative's marriage

Mr. Sheldon I. Pivnik
Notary Public

RE: NOTARIES PUBLIC–MARRIAGE–notary public not prohibited from solemnizing the rites of matrimony for relative. s. 117.05, F.S.

QUESTION:

Does s. 117.05(6)(d), F.S., as amended by Ch. 91-291, Laws of Florida, prohibit a notary public from solemnizing the rites of matrimony of persons related by blood or marriage to the notary public?

SUMMARY:

Section 117.05(6)(d), F.S., as amended by Ch. 91-291, Laws of Florida, effective January 1, 1992, does not prohibit a notary public from solemnizing the rites of matrimony of persons related by blood or marriage to the notary public.

Section 117.05(6)(d), as amended by s. 4, Ch.91-291, Laws of Florida, provides that a notary public may not notarize a signature on a document if "[t]he person whose signature is to be notarized is related to the notary public by blood or marriage." Chapter 91-291, Laws of Florida, takes effect January 1, 1992.[1]

Section 117.04, F.S., as amended by s. 3, Ch. 91-291, Laws of Florida, provides that a notary public is authorized to solemnize the rights of marriage.[2] The fee for performing such service may not exceed those provided by law to the clerk of the circuit court of performing like services.[3]

Before solemnizing a marriage, the notary public must require of the two parties a marriage license issued accordingly to s. 741.01, F.S.[4] Within 10 days after solemnizing the marriage, "he shall make a certificate thereof on the license, and shall transmit the same to the office of the county court judge or clerk of the circuit court from which it issued." [5]

Section 117.05(6)(d), as amended and effective January 1, 1992, prohibits a notary public from notarizing the signature of a relative on a document. In solemnizing the rites of matrimony and certifying on the marriage license that he has solemnized the marriage, the notary is not notarizing the signature of the relative on a document. Accordingly, the prohibition contained in s. 117.05(6)(d), F.S., as amended, would not appear to be applicable.

Therefore, I am of the opinion that s. 117.05(6)(d), F.S., as amended by s. 4, Ch. 91-291, Laws of Florida, effective January 1, 1992, does not prohibit a notary public from solemnizing the rites of matrimony pursuant to s. 117.04, F.S., as amended by s. 3, Ch. 91-292, Laws of Florida.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

[1] See s. 11, Ch. 91-291, Laws of Florida.

[2] *And see* s. 741.07(1), F.S., which provides that notaries public of the state, among others, may solemnize the rights of matrimonial contract, under the regulations prescribed by law.

[3] See s. 28.24(29), F.S., providing that the service charge for the clerk of the circuit court is \$20 for solemnizing matrimony.

[4] Section 741.08, F.S.

[5] *Id.*