

Justices of the Peace Summary of Duties

The following is a short summary of the primary duties performed by Justices of the Peace in the Commonwealth of Massachusetts. It is by no means a complete list, but is meant to be a general guide to help justices obtain a sense of the varied responsibilities and functions that their commissions entail. References made in the following sections can be found in the Massachusetts General Laws, which you can view at: <https://malegislature.gov>

I. SOLEMNIZE MARRIAGES WHEN SO AUTHORIZED

A marriage may be solemnized by a Justice of the Peace, anywhere in the Commonwealth, if he or she is also a clerk or assistant clerk in a city or town. A Justice of the Peace who is not a clerk or assistant clerk may also solemnize marriages anywhere in the Commonwealth if he or she has been designated and qualified for such authority. [G.L. c. 207, § 38](#).

A. FORM OF CEREMONY

As a general rule, there is no prescribed form of ceremony to solemnize a marriage. Although particular words are not essential to a ceremonial marriage, the words employed must be sufficient to demonstrate a present marriage contract. At a minimum, the parties must assent to a mutual agreement to take each other as marital spouses and the Justice of the Peace must assert to act in his or her official capacity in pronouncing the parties to be married. [Milford v. Worcester](#), 7 Mass. 48, 54 (1810); [Goodridge v. Massachusetts Department of Public Health](#), [440 Mass. 309](#) (2003). You could ask the individuals who are getting married whether they would like you to pronounce them as: married, husband and wife, husband and husband, wife and wife, marital partners, spouses, or some other way of acknowledging that they two people have been married.

B. FEES FOR THE SOLEMNIZATION OF A MARRIAGE

A Justice of the Peace who is designated to solemnize marriages or a justice who is a city or town clerk or court clerk or their assistant may charge a **maximum fee of one hundred (\$100) dollars** to solemnize a marriage within their home community, or a **maximum of one hundred and fifty (\$150) dollars** if the ceremony is performed in any other municipality in the commonwealth. These fees preclude additional charges for traveling, or for providing flowers, music, photographer, a location where the ceremony takes place, or an unofficial certificate of marriage.

However, you may charge an additional fee for prenuptial counseling conferences, rehearsals, and other special requests by the couple whose marriage is being solemnized; provided, however, that the amount of these additional charges must be disclosed in writing to the couple whose marriage is being solemnized at least forty-eight hours before the rendering of these services. The total fee for lawfully solemnizing and certifying a marriage shall not exceed the fee limit fixed for solemnizing and certifying a marriage in a justice's home community where a municipal employee who is also a Justice of the Peace solemnizes a marriage in a municipal building at a time when the building is regularly open for business. [G.L. c. 262, § 35](#).

C. MARRIAGE RECORDS AND RETURNS: PENALTIES

A Justice of the Peace who is designated to solemnize marriages is required to keep a record of each marriage performed and to return all marriage certificates to the clerk or registrar who issued the certificate no later than the tenth day of the month following the marriage. [G.L. c. 207, § 40](#).

Any intentional alteration of a certificate or attestation by a Justice of the Peace, for the purpose of perpetrating a fraud, where the certificate may be received as legal proof, is a crime. A violation of this provision may result in imprisonment for a period of up to ten years. [G.L. c. 267, § 1](#).

D. PROHIBITION AGAINST ADVERTISING

[G.L. c. 207, § 58](#) states:

A Justice of the Peace or other person authorized to solemnize marriages may advertise his name or any trade name, business address, telephone number, rate of compensation as provided by law, regular hours of availability and any ability in a second language and any present or former professional affiliation, in any newspaper, magazine, telephone directory or other publication of general circulation. Whoever advertises to perform or to procure the performance of a marriage ceremony by any other means shall be punished by a fine of not less than ten nor more than one hundred dollars; provided, however, that this section shall not be construed to prohibit the use of a business card by a Justice of the Peace or other person authorized to perform marriage ceremonies; and provided, further, that if a Justice of the Peace uses a business card said card shall not display the seal of the commonwealth.

E. REFUSAL TO PERFORM MARRIAGE CEREMONY

Justices of the Peace are public officials that have sworn an oath that to "bear true faith and allegiance to the Commonwealth of Massachusetts, and [to] support the constitution thereof." In *Goodridge v. Department of Public Health*, [440 Mass. 309](#) (2003), the Supreme Judicial Court of Massachusetts decided that denying marriage to couples based on their sexual orientation violates the Massachusetts Constitution. As such, Justices of the Peace may not refuse to marry same sex couples based on their sexual orientation, and may face personal liability if they do refuse to marry a couple based solely on sexual orientation. In addition, refusing to marry a same sex couple solely based on their race, sexual orientation, or other protected status may constitute cause for removal of a Justice of the Peace's commission.

II. ACKNOWLEDGMENTS

A Justice of the Peace is authorized to take acknowledgments in the same manner as a notary public. [G.L. c. 222, § 1](#). For further information on the specific types of acknowledgments, see [G.L. c. 36, § 16](#); [G.L. c. 46, § 3D](#); [G.L. c. 156D, § 1.20](#); [G.L. c. 158, § 31](#); [G.L. c. 183, §§ 30, 54B](#); [G.L. c. 254 § 30](#).

III. OATHS

A Justice of the Peace is also authorized to administer certain oaths of office. [G.L. c. 222, § 1](#). Oaths may be administered to town clerks ([G.L. c. 41, § 107](#)); to a probate and insolvency register ([G.L. c. 217, §§ 5, 5A](#)); to special State police officers ([G.L. c. 22C, § 53](#)); to officers for return of expenses in criminal cases ([G.L. c. 262 § 47](#)); for presiding officials of religious societies ([G.L. c. 67, § 15](#)); to municipal employees ([G.L. c. 43, § 17](#)); to caucus officers ([G.L. c. 53, § 113](#)); to Commissioners in State, Territory, District, or Dependency, of the United States ([G.L. c. 222, § 5](#)); to appraisers ([G.L. c. 236, § 7](#)); and in probate court proceedings ([G.L. c. 215, § 38](#)). This authority does not apply to state or gubernatorial appointees. [G.L. c. 30, § 11](#). After administering an oath to any town officer, each Justice of the Peace is required to return the corresponding certificate to the local town clerk within seven days. [G.L. c. 41, § 16](#). However, a Justice of the Peace is disqualified from acting officially in connection with a transaction in which he or she has any personal interest in the subject matter of the oath.

IV. DEPOSITIONS

In addition to witnessing a document under [G.L. c. 222, § 1](#), a Justice of the Peace may take, upon request, depositions within the commonwealth by administering written interrogatories unless otherwise provided by a court. [G.L. c. 233, §§ 26, 42](#). A deposition is usually a written statement by a witness under oath. The manner of notice, certification, delivery, examination, oath taking, etc. of depositions in civil cases are set forth in [G.L. c. 233, §§ 24-34, 45-49](#).

V. CALLING OF MEETINGS

Under certain limited circumstances, Justice of the Peace may call meetings of corporations ([G.L. c. 155, § 15](#)), fire districts ([G.L. c. 48, § 62](#)), proprietors of private ways or bridges ([G.L. c. 84, § 12](#)), proprietors of wharves and real estate lying in common ([G.L. c. 179, § 1](#)), general field proprietors ([G.L. c. 179, § 19](#)), religious societies ([G.L. c. 67, § 29](#)), and a town meeting upon the resignations of a town selectmen by issuing a warrant ([G.L. c. 39, § 11](#)).

VI. NON-MARITAL FEES

A Justice of the Peace shall charge ten cents for a subpoena of one or more witnesses, fifty cents for taking a deposition, twelve cents/page for writing a deposition and caption, twenty-five cents for administering an oath required by law to one or more person at a given time, twenty-five cents for acknowledgement of a deed by one or more granters at a given time. [G.L. c. 262 § 1](#).