



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
Registry of Vital Records and Statistics  
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Circular Letter 2012-01

To: Massachusetts City and Town Clerks  
From: Stanley E. Nyberg, Ph.D., M.B.A. *SEN*  
Registrar of Vital Records and Statistics  
Re: **CHANGES TO MASSACHUSETTS IMPEDIMENTS TO MARRIAGE:**  
**Decision in SJC-11023 *Todd Elia-Warnken vs. Richard Elia***  
Date: July 31, 2012

On July 26, 2012, the Massachusetts Supreme Judicial Court, in the case *Todd Elia-Warnken vs. Richard Elia*, held that: "a Vermont civil union must be dissolved prior to either party entering into marriage with a third person in the Commonwealth."

Further, in a footnote, the Court mentioned that "Under certain conditions, a polygamous marriage may be validated if the impediments to the subsequent marriage are removed (e.g., through divorce or death). G.L. c. 207, § 6."

The Department of Public Health's Office of the General Counsel is examining the full implications of this ruling in conjunction with Registry of Vital Records and Statistics (RVRS). Further instructions from RVRS will be forthcoming; however, effective immediately:

1. Clerks shall continue to use the existing *Notice of Intention of Marriage* form which, as the Court noted in footnote 6 "asks the parties to state whether they are or were a party to a civil union or domestic partnership and, if so, to identify the State or country in which it took place as well as whether it was dissolved."
2. Clerks shall NOT issue new Massachusetts marriage licenses or register a new *Certificate of Marriage* for parties where either Party A or Party B is in a civil union with a third party that has not yet been dissolved.
  - a. If either Party A or Party B indicates in items 7B or 15B, on the *Notice of Intention of Marriage* form, that he or she is in a civil union, and in items 7C or 15C the party indicates that his or her civil union has not been dissolved, clerks shall ask if the civil union is between the current parties or with a third party.
  - b. If the civil union is between a party other than between *both* Party A and Party B, the license shall not be issued until the impediment to marriage has been removed.

If City or Town Clerks have questions, please feel free to call or email RVRS at [vitals.regulation@state.ma.us](mailto:vitals.regulation@state.ma.us) or at (617) 740-2620. If members of the public have questions, please refer them to the email listed, or to the Registry's main telephone number: (617) 740-2600.