

Also in subsection (a)(2) of this section, the phrase "solicit the performance of any marriage ceremony" is substituted for the former phrase "solicitation or performance of marriages", for clarity.

In subsection (b)(1) of this section, the former minimum penalty is deleted to conform to the statement of legislative policy contained in Article 27, § 643, which sets forth the general rule that, notwithstanding a prescribed minimum penalty, the court nevertheless may impose a lesser penalty of the same character.

In subsection (b)(2) of this section, the phrase "is guilty of a misdemeanor" is new language added for clarity.

The Commission to Revise the Annotated Code notes, for consideration by the General Assembly, that the provisions of this section are an attempt to prohibit a single general activity -- the advertising of the services of individuals who are authorized to perform marriages. While the activities set out in subsection (a)(1) of this section are forms of "in-person solicitation", and, therefore, probably are not constitutionally protected, Ohralik v. Ohio State Bar Association, 436 U.S. 447 (1978), the form of advertising set out in subsection (a)(2) of this section may be constitutionally protected, and thus the prohibition on that form of advertising may be unconstitutional. Donnelly Advertising Corp. v. Baltimore, 279 Md. 660 (1977); see also Linmark Associates v. Willingboro, 431 U.S. 85 (1977).

Defined term: "Authorized official" § 2-101

2-410 2-409. SIGNING AND DISPOSITION OF MARRIAGE CERTIFICATES.

(A) SIGNING OF CERTIFICATE.

EACH MARRIAGE CERTIFICATE SHALL CONTAIN:

(1) THE NAME, SIGNATURE, AND TITLE OF THE AUTHORIZED OFFICIAL WHO PERFORMS THE MARRIAGE CEREMONY; OR

(2) IF THE INDIVIDUALS ARE MARRIED IN A SOCIETY OF FRIENDS MARRIAGE CEREMONY, THE SIGNATURES OF THE INDIVIDUALS AND THE ATTESTATION OF THE CERTIFICATE BY 2 OVERSEERS OF THE MARRIAGE CEREMONY.

(B) DISPOSITION OF CERTIFICATES.

(1) THE AUTHORIZED OFFICIAL WHO PERFORMS THE MARRIAGE CEREMONY SHALL: