

Questions & Answers from the Governor's Information Session Presentation on May 4, 2004

What does the phrase "intends to continue -to-reside" mean?

This phrase means that the individual has the present intention either to remain where he currently lives, or to establish a new home or residence in another state in the near future, even if a specific address or town has not been selected.

A vague intent to someday have a residence in a state is insufficient.

How is the word "residence" defined?

A person's residence is where she actually lives (e.g., sleeps and eats) and makes a home. The person has to have an identifiable address, and the intent to make that place her home at least for the time being. A person may have more than one home and residence at a time. For the purpose of marriage, a person may claim either home as a residence.

People can change their residence by moving to and making a commitment to live in a specific place. As soon as a person moves and makes a commitment to live and make a home in a particular place, she can apply to be married using her new address.

People simply traveling away from their home and who intend to return to their home do not change their residence.

How may a clerk satisfy himself about where a person resides?

The clerk's responsibility regarding the applicant's residence may be satisfied by:

- some type of documentary evidence to confirm where the person resides (the back of the Notice of Intention form lists suggestions that include: a utility bill; bank or credit card statement; telephone listing; current voter registration; employment or business address; driver's license; automobile registration; copy of state or federal tax return; deed, purchase and sale, or lease for residential property; or some other document that demonstrates where a person resides); and/or
- a sworn affidavit. The Notice of Intention form, once signed by the applicants under the pains and penalties of perjury, is an affidavit.

What if a person does not have any type of document that confirms where he resides and intends to continue to reside?

If the lack of documentation means that the clerk is not able to satisfy himself that there is no legal impediment to the person's marriage, the clerk may:

- Ask the person to return with documentation so that the clerk may be satisfied; or

- Refuse to issue the license. (G.L. c. 207, s 12)

If the clerk is satisfied by the person's oath that there is no legal impediment to marriage, the clerk may accept the oath. (G.L. c. 207, s. 12)

If a person has more than one residence, what should she write on the Notice of Intention?

If a person has more than one residence, she may decide which residence to write on the Notice of Intention. The following examples describe people with more than one residence:

- College students who live at their parents' home during summer, but on campus during the year;
- A person who owns homes in three different states, and divides his time between those homes throughout the year;
- A person who works and resides in one state during the week, but resides in another state on the weekends;
- A person who resides in Massachusetts during warmer months, but resides in Florida during the colder months.

If Jon and Tom both reside outside of Massachusetts, and Tom is admitted to medical school in Massachusetts and will begin in the fall, and both swear on the Notice of Intention that they intend to reside in Massachusetts, can the clerk issue a certificate of marriage?

Yes, because they both intend to reside in Massachusetts.

Does a person have to be a resident of Massachusetts to get married here?

No. There is no residency requirement to get married in Massachusetts.

If Scott resides outside of Massachusetts and intends to continue to reside outside of Massachusetts, can the clerk issue a license if Scott intends to marry a person of the same sex?

No, unless the state in which Scott resides and intends to continue to reside has affirmatively indicated that same sex marriage is permitted in that state. You will be provided with a list of these states, if any, by May 17.

If Becky lives in Massachusetts and would like to marry Sue, who lives outside of Massachusetts, can the clerk issue a certificate?

Yes, so long as Sue intends to reside in Massachusetts and there is no other legal impediment to the marriage.