

STATE OF TENNESSEE
OFFICE OF THE
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Opinion No. 04-157

Police Chaplain's Authority to Perform Marriage

QUESTION

Does a certified police chaplain who is not ordained have authority under Tenn. Code Ann. § 36-3-301 to perform a marriage?

OPINION

No. A police chaplain who is not ordained as a minister, preacher, pastor, priest, rabbi or other spiritual leader of a religious belief does not have authority under Tenn. Code Ann. § 36-3-301 to perform a marriage.

ANALYSIS

In Tennessee, the law of marriage is not controlled by the common law but rather is a matter of statute. *Bryant v. Townsend*, 188 Tenn. 630, 221 S.W.2d 949 (1949). Accordingly, a marriage ceremony must be performed by a person authorized under Tennessee law in order to be valid. *Smith v. North Memphis Savings Bank*, 115 Tenn. 12, 89 S.W. 392 (1905).

The Legislature has designated the persons who may solemnize marriages. Tenn. Code Ann. § 36-3-301(a). In particular, this statute provides:

All regular ministers, preachers, pastors, priests, rabbis and other spiritual leaders of every religious belief, more than eighteen (18) years of age, having the care of souls, . . . may solemnize the rite of matrimony.

Id.

This Office has previously opined that “regular ministers” as used in this statute refers to persons who have been ordained in conformity with the customs of any organized denomination. Op. Tenn. Att’y Gen. No. 87-151 (September 17, 1987). Similarly, the words “other spiritual

leaders” of religious belief when given their natural and ordinary meaning also refer to persons who are ordained in conformity with the customs of any denomination and authorized to perform religious functions.

Thus, if a certified police chaplain is serving as an officer and is not ordained in conformity with the customs of any religious denomination and authorized to perform religious functions, such officer would not be authorized to perform a marriage under Tenn. Code Ann. § 36-3-301.

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