

3.26. Marriage Certificate or Record of Registration

Part I (CPLR 4526)

An original certificate of a marriage made by the person by whom it was solemnized within the state, or the original entry thereof made pursuant to law in the office of the clerk of a city or a town within the state, is prima facie evidence of the marriage.

Part II (Domestic Relations Law § 14-a [4])

A copy of the record of marriage registration when properly certified by the city and town clerks or their duly authorized deputies, as . . . provided [in Domestic Relations Law § 14-a], shall be prima facie evidence of the facts therein stated and in all actions, proceedings or applications, judicial, administrative or otherwise, and any such certificate of registration of marriage shall be accepted with the same force and effect with respect to the facts therein stated as the original certificate of marriage or certified copy thereof.

Note

There are two separate statutes relating to documentary proof of a marriage.

Part I restates verbatim CPLR 4526. That statute provides that an “original certificate of a marriage” made by the person who solemnized the marriage in New York, or the “original entry” of the certificate made by a city or town clerk in New York is prima facie evidence “of the marriage” (and not of any other facts stated in the certificate), and thereby establishes an exception to the rule against the admission of hearsay.

Part II restates subdivision (4) of Domestic Relations Law § 14-a. That statute provides that the “record of marriage registration” is prima facie evidence “of the facts therein stated” and thereby establishes an exception to the rule against the admission of hearsay for the facts stated in the marriage registration.

While the “certificate” (CPLR 4526) or “registration” (Domestic Relations Law § 14-a [4]) of marriage is admissible and each is “prima facie evidence” as indicated, evidence may be introduced to rebut the “prima facie evidence” of

“marriage” or of the “facts” stated in the “registration,” as the case may be, or otherwise to affect the weight of the evidence. (Cf. *Knox Vil. Assoc. v Town of New Windsor*, 219 AD2d 585, 586 [2d Dept 1995] [“the defendants overcame the presumption of accuracy afforded to the ancient documents produced by the plaintiff (see, CPLR 4522 . . .)”]; *Berman v Golden*, 131 AD2d 416, 417 [2d Dept 1987] [indicating that the terminology “prima facie evidence” in CPLR 4522 (Ancient filed maps, surveys and records affecting real property) created a rebuttable presumption of the accuracy of the documents]. See Vincent C. Alexander, Practice Commentaries, McKinney’s Cons Laws of NY, Book 7B, CPLR C4518:9.)