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## A BILL FOR AN ACT

RELATING TO MARRIAGE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 572-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§572-1 Requisites of valid marriage contract.** In order  
4 to make valid the marriage contract, which shall be only between  
5 ~~[a man and a woman,]~~ two persons, it shall be necessary that:

6           (1) The respective parties do not stand in relation to  
7 each other of ancestor and descendant of any degree  
8 whatsoever, brother and sister of the half as well as  
9 to the whole blood, uncle and niece, aunt and nephew,  
10 whether the relationship is the result of the issue of  
11 parents married or not married to each other;

12           (2) Each of the parties at the time of contracting the  
13 marriage is at least sixteen years of age; provided  
14 that with the written approval of the family court of  
15 the circuit within which the minor resides, it shall  
16 be lawful for a person under the age of sixteen years,  
17 but in no event under the age of fifteen years, to  
18 marry, subject to section 572-2;



- 1           (3)   ~~[The man]~~ Either one person does not at the time have  
2           any lawful ~~[wife]~~ spouse living ~~[and that the woman~~  
3           ~~does not at the time have any lawful husband living]~~;
- 4           (4)   Consent of neither party to the marriage has been  
5           obtained by force, duress, or fraud;
- 6           (5)   Neither of the parties is a person afflicted with any  
7           loathsome disease concealed from, and unknown to, the  
8           other party;
- 9           (6)   The ~~[man and woman]~~ two persons to be married in the  
10          State shall have duly obtained a license for that  
11          purpose from the agent appointed to grant marriage  
12          licenses; and
- 13          (7)   The marriage ceremony be performed in the State by a  
14          person or society with a valid license to solemnize  
15          marriages and the ~~[man and the woman]~~ two persons to  
16          be married and the person performing the marriage  
17          ceremony be all physically present at the same place  
18          and time for the marriage ceremony."

19           SECTION 2. Section 572-3, Hawaii Revised Statutes, is  
20   amended to read as follows:



1           **"§572-3 Contracted without the State.** Marriages between  
2 [~~a man and a woman~~] two persons legal in the country where  
3 contracted shall be held legal in the courts of this State."

4           SECTION 3. Section 572-13, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) Recordkeeping. Every person authorized to solemnize  
7 marriage shall make and preserve a record of every marriage by  
8 the person solemnized, comprising the names of the [~~man and~~  
9 ~~woman~~] two persons married, their place of residence, and the  
10 date of their marriage.

11           Every person authorized to solemnize marriage, who neglects  
12 to keep a record of any marriage by the person solemnized shall  
13 be fined \$50."

14           SECTION 4. Section 651-91, Hawaii Revised Statutes, is  
15 amended by amending the definition of "head of a family" to read  
16 as follows:

17           "(1) "Head of a family" includes within its meaning:

18                   (A) [~~A man and woman~~] Two persons when married,  
19                               except as provided in section 651-93[~~7~~];

20                   (B) Every individual who is residing on the real  
21                               property and who has under his or her care or  
22                               maintenance, either:



- 1 (i) His or her minor child, or minor grandchild,  
2 or the minor child of his or her deceased  
3 wife or husband;
- 4 (ii) A minor brother or sister, or the minor  
5 child of a deceased brother or sister;
- 6 (iii) A father, mother, grandfather, or  
7 grandmother;
- 8 (iv) The father, mother, grandfather, or  
9 grandmother of a deceased husband or wife;  
10 or
- 11 (v) An unmarried brother, sister, or any other  
12 of the relatives mentioned in this  
13 subparagraph, who have attained the age of  
14 majority[-]; and

15 (C) Head of household as defined in section 2(b) of  
16 the Internal Revenue Code of 1954, as amended."

17 SECTION 5. Section 707-700, Hawaii Revised Statutes, is  
18 amended by amending the definition of "married" to read as  
19 follows:

20 ""Married" includes persons legally married, and [~~a male~~  
21 ~~and female~~] two persons living together as husband and wife



1 regardless of their legal status, but does not include spouses  
2 living apart."

3 SECTION 6. Section 572C-2, Hawaii Revised Statutes, is  
4 repealed.

5 [~~§572C-2~~] ~~Findings.~~ The legislature finds that the  
6 people of Hawaii choose to preserve the tradition of marriage as  
7 a unique social institution based upon the committed union of  
8 one man and one woman. The legislature further finds that  
9 because of its unique status, marriage provides access to a  
10 multiplicity of rights and benefits throughout our laws that are  
11 contingent upon that status. As such, marriage should be  
12 subject to restrictions such as prohibiting respective parties  
13 to a valid marriage contract from standing in relation to each  
14 other, i.e., brother and sister of the half as well as to the  
15 whole blood, uncle and niece, aunt and nephew.

16 However, the legislature concurrently acknowledges that  
17 there are many individuals who have significant personal,  
18 emotional, and economic relationships with another individual  
19 yet are prohibited by such legal restrictions from marrying.  
20 For example, two individuals who are related to one another,  
21 such as a widowed mother and her unmarried son, or two  
22 individuals who are of the same gender. Therefore, the



1 ~~legislature believes that certain rights and benefits presently~~  
2 ~~available only to married couples should be made available to~~  
3 ~~couples comprised of two individuals who are legally prohibited~~  
4 ~~from marrying one another." ]~~

5 SECTION 7. The legislative reference bureau shall review  
6 gender-specific terms used in relation to the contract of  
7 marriage that exist in the Hawaii Revised Statutes, including  
8 but not limited to terms such as "husband", "wife", "widow", and  
9 "widower", and shall prepare proposed legislation that  
10 substitutes gender-neutral terms for the gender-specific terms  
11 identified, as appropriate, in keeping with the purposes of this  
12 Act.

13 The legislative reference bureau shall submit the proposed  
14 legislation to the legislature not later than twenty days prior  
15 to the convening of the 2010 regular session.

16 SECTION 8. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun, before its effective date.

19 SECTION 9. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 10. This Act shall take effect upon its approval.

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INTRODUCED BY:

*[Signature]*

*[Signature]*

*Scott K. Smith*

*[Signature]*

*Ray J. Hanstman*

*Denny Coffman*

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JAN 26 2009



**Report Title:**

Marriage

**Description:**

Repeals language that defines or refers to marriage as being limited to a relationship between a man and a woman and instead specifies that the relationship is one between two persons.

