

JAN 23 2009

A BILL FOR AN ACT

RELATING TO CIVIL UNIONS.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 CIVIL UNION

6 § -1 Definitions. As used in this chapter, unless the
7 content otherwise requires:

8 "Agent" means the person or persons appointed as agents by
9 the department of health pursuant to section 572-5 to grant
10 marriage licenses in the judicial circuit in which a license for
11 a civil union is to be granted.

12 "Civil union" means a union between two individuals
13 established pursuant to this chapter.

14 "Partner" means an individual who is a party to a civil
15 union established pursuant to this chapter.

16 § -2 Eligibility to enter into a civil union. A person
17 shall be eligible to enter into a civil union only if the person
18 is:



- 1 (1) Not a partner in another civil union or a marriage;
- 2 (2) Of the same sex as the other partner in the civil
- 3 union;
- 4 (3) At least eighteen years of age; and
- 5 (4) Not related to the other partner as provided in
- 6 section -3.

7 § -3 Civil unions void; when. A civil union shall be
8 void if between the following persons:

- 9 (1) A woman and her mother, grandmother, daughter,
- 10 granddaughter, sister, brother's daughter, sister's
- 11 daughter, father's sister, or mother's sister; or
- 12 (2) A man and his father, grandfather, son, grandson,
- 13 brother, brother's son, sister's son, father's
- 14 brother, or mother's brother.

15 § -4 Solemnization; license to perform; refusal to join
16 persons in a civil union. (a) A civil union shall become valid
17 only upon completion of a solemnization by a person licensed in
18 accordance with this section.

19 (b) Any judge or retired judge, including a federal judge
20 or judge of another state who may legally join persons in
21 marriage or a civil union, may solemnize a civil union. Any
22 ordained or licensed member of the clergy may solemnize a civil



1 union. Solemnization may be entirely secular or may be
2 performed according to the forms and usages of any religious
3 denomination in this State. Nothing in this section shall be
4 construed to require any person authorized to perform
5 solemnizations of marriages or civil unions to perform a
6 solemnization of a civil union, and no such authorized person
7 who fails or refuses for any reason to join persons in a civil
8 union shall be subject to any fine or other penalty for such
9 failure or refusal.

10 (c) No agent may solemnize a civil union; nor may any
11 assistant or deputy of the agent solemnize a civil union.

12 (d) No person shall perform solemnization of a civil union
13 without first having obtained a license from the department of
14 health. The department of health shall issue licenses to
15 solemnize civil unions in the same manner as it issues licenses
16 to solemnize marriages pursuant to chapter 572. The department
17 of health may revoke or suspend a license to solemnize civil
18 unions in the same manner as it may revoke or suspend a license
19 to solemnize marriages pursuant to chapter 572. Any penalties
20 or fines that may be levied or assessed by the department of
21 health for violation of chapter 572 with respect to a person



1 licensed to solemnize marriages shall apply equally to a person
2 licensed to solemnize civil unions.

3 § -5 Applicants for civil union; license required;
4 limitations. (a) No persons may be joined in a civil union in
5 this State unless both partners have:

- 6 (1) Met the requirements of section -2; and
- 7 (2) Complied with sections -6 and, if applicable,
8 section -7;
- 9 (3) Been issued a license by the agent in the judicial
10 circuit in which a civil union is to be solemnized or
11 in which either person resides, which license shall
12 bear the certification of the agent that the persons
13 named therein have met the requirements of section
14 -2 and have complied with sections -6 and, if
15 applicable section -7.

16 (b) The license, when certified by the agent, is
17 sufficient authority for any person authorized to perform a
18 civil union solemnization in this State to join such persons in
19 a civil union; provided the solemnization is performed not more
20 than thirty days after the date of issuance. The license shall
21 become void after thirty days.

1 § -6 Application for license for persons who wish to
2 enter into a civil union; fee. (a) No license for a civil
3 union may be issued by the agent until both applicants have
4 appeared before the agent and applied for a license. The
5 application for the license shall be completed in its entirety,
6 dated, signed, and sworn to by each applicant and shall state
7 each applicant's full name, date of birth, birthplace,
8 residence, social security number, whether single, widowed, or
9 divorced, and whether the applicant is under the supervision or
10 control of a conservator. If the application is signed and
11 sworn to by the applicants on different dates, the earlier date
12 shall be deemed the date of application. The agent shall issue
13 a copy of this chapter to any person applying for a license.

14 (b) The fee for a license to enter into a civil union
15 shall be an amount equal to the amount prescribed in section
16 572-5, and all amounts collected by the agent as application
17 fees under this chapter shall be retained or remitted and
18 apportioned in the same manner as prescribed in section 572-5.

19 § -7 Persons under control of conservator. (a) No
20 civil union license may be issued to any applicant under the
21 supervision or control of a conservator, appointed in accordance



1 with chapter 560, unless the written consent of the conservator,
2 signed and notarized, is filed with the agent.

3 (b) Any person who enters into a civil union without the
4 consent provided for in subsection (a) shall acquire no rights,
5 by that civil union, in the property of any person who was under
6 that control or supervision of a conservator at the time the
7 civil union was entered into.

8 § -8 Record of solemnization; reported by whom;

9 affidavit; evidentiary weight of certificate or affidavit. (a)

10 Each person who solemnizes a civil union shall certify upon the
11 partners' license certificate the fact, time, and place of the
12 solemnization of the civil union and return the license to the
13 agent within three business days following the solemnization of
14 the civil union, or as may otherwise be prescribed by the
15 department of health for persons authorized to perform
16 solemnizations of marriages pursuant to chapter 572.

17 (b) If any person who has solemnized a civil union fails
18 to return the certificate to the agent as required under
19 subsection (a), the partners joined in a civil union may provide
20 the agent with a notarized affidavit attesting to the fact that
21 they were joined in a civil union and stating the date and place
22 of the solemnization of the civil union. Upon the recording of



1 that affidavit by the agent, the civil union of the partners
2 shall be deemed to be valid as of the date of the solemnization
3 of the civil union stated in the affidavit.

4 (c) The certificate required by subsection (a) or an
5 affidavit recorded pursuant to subsection (b) shall be prima
6 facie evidence of the facts stated therein.

7 § -9 Same benefits, protections, and responsibilities as
8 marriage. Partners to a civil union lawfully entered into
9 pursuant to this chapter shall have all the same rights,
10 benefits, protections, and responsibilities under law, whether
11 derived from statutes, administrative rules, court decisions,
12 the common law, or any other source of civil law, as are granted
13 to spouses in a marriage validly entered into pursuant to
14 chapter 572.

15 § -10 Civil unions performed in other jurisdictions. A
16 civil union, domestic partnership, or marriage of two persons of
17 the same sex that was validly performed in another jurisdiction
18 shall be recognized as a civil union in this State regardless of
19 whether the union bears the name "civil union".

20 SECTION 2. Section 572-1.6, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§572-1.6] Private solemnization not unlawful. Nothing~~
2 ~~in this chapter shall be construed to render unlawful, or~~
3 ~~otherwise affirmatively punishable at law, the solemnization of~~
4 ~~same sex relationships by religious organizations, provided that~~
5 ~~nothing in this section shall be construed to confer any of the~~
6 ~~benefits, burdens, or obligations of marriage under the laws of~~
7 ~~Hawaii."]~~

8 SECTION 3. Except for part I of chapter 572, every
9 reference in the Hawaii Revised Statutes to "marriage", or any
10 aspect thereof, shall apply equally to "civil unions",
11 including:

- 12 (1) Every reference in the Hawaii Revised Statutes to
13 "married" shall apply equally to the status of
14 partners in a civil union;
- 15 (2) Every reference to "husband", "wife", or "spouse"
16 shall apply equally to a partner in a civil union; and
- 17 (3) Every reference to marital status, including without
18 limitation provisions pertaining to parties and
19 procedures for annulment, divorce, separation, or
20 dissolution, which shall apply equally and as
21 necessary to civil unions and to partners in a civil
22 union.



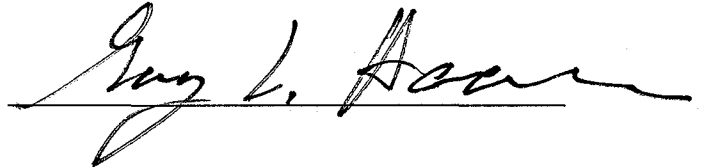
1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed
5 and stricken.

6 SECTION 6. This Act shall take effect on January 1, 2010.

7

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Guy L. Acorn", is written over a horizontal line.



Report Title:

Civil Unions

Description:

Extends the same rights, benefits, protections, and responsibilities of spouses in a marriage to partners in a civil union.

