
A BILL FOR AN ACT

RELATING TO CIVIL UNIONS.

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

1 SECTION 1. Chapter 572-B, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§572B-A Transition from reciprocal beneficiary
5 relationship to civil union; uninterrupted rights. Two persons
6 who terminate their reciprocal beneficiary relationship and
7 enter into a civil union solemnized thereafter within a period
8 of six months, or two persons who entered into a reciprocal
9 beneficiary relationship and entered into a union outside the
10 State who are recognized under law as partners to a civil union
11 in the State, shall suffer no loss or interruption of any
12 rights, benefits, protections, or obligations derived from their
13 reciprocal beneficiary relationship; provided that these rights,
14 benefits, protections, or obligations are also accorded to
15 partners in a civil union pursuant to section 572B-9. Any
16 reference to the date of commencement of a right, benefit,
17 protection, or obligation shall refer to the first date the
18 right, benefit, protection, or obligation accrued under the



1 reciprocal beneficiary relationship. For purposes of this
2 section, holding title to real or personal property as tenants
3 by the entirety shall be included among the rights or benefits
4 deemed continuous and uninterrupted, and termination of a
5 reciprocal beneficiary relationship in accordance with this
6 section shall not operate to terminate a tenancy by the entirety
7 or to convert such a tenancy into a tenancy in common.

8 **§572B-B Use of religious facility for solemnization of**
9 **civil unions.** (a) Notwithstanding any other law to the
10 contrary, a religious organization may deny use of a religious
11 facility for solemnization of a civil union. No religious
12 organization that denies use of its religious facility to
13 solemnize a civil union shall be subject to any fine or penalty.

14 (b) For purposes of this section, "religious facility"
15 means a facility owned or leased by a religious organization but
16 is not a place of public accommodation as defined in section
17 489-2."

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

20 "**§572-1 Requisites of valid marriage contract.** In order
21 to make valid the marriage contract, which shall be only between
22 a man and a woman, it shall be necessary that:



- 1 (1) The respective parties do not stand in relation to
2 each other of ancestor and descendant of any degree
3 whatsoever, brother and sister of the half as well as
4 to the whole blood, uncle and niece, aunt and nephew,
5 whether the relationship is the result of the issue of
6 parents married or not married to each other[+] or
7 parents who are partners in a civil union or not
8 partners in a civil union;
- 9 (2) Each of the parties at the time of contracting the
10 marriage is at least sixteen years of age; provided
11 that with the written approval of the family court of
12 the circuit within which the minor resides, it shall
13 be lawful for a person under the age of sixteen years,
14 but in no event under the age of fifteen years, to
15 marry, subject to section 572-2;
- 16 (3) The man does not at the time have any lawful wife or
17 civil union partner living and that the woman does not
18 at the time have any lawful husband or civil union
19 partner living;
- 20 (4) Consent of neither party to the marriage has been
21 obtained by force, duress, or fraud;



- 1 (5) Neither of the parties is a person afflicted with any
2 loathsome disease concealed from, and unknown to, the
3 other party;
- 4 (6) The man and woman to be married in the State shall
5 have duly obtained a license for that purpose from the
6 agent appointed to grant marriage licenses; and
- 7 (7) The marriage ceremony be performed in the State by a
8 person or society with a valid license to solemnize
9 marriages and the man and the woman to be married and
10 the person performing the marriage ceremony be all
11 physically present at the same place and time for the
12 marriage ceremony."

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

15 "[~~+~~]**§572B-2**[~~+~~] **Eligibility to enter into a civil union.** A
16 person shall be eligible to enter into a civil union only if the
17 person is:

- 18 (1) Not a partner in another civil union[~~7~~] or a spouse in
19 a marriage[~~, or a party to a reciprocal beneficiary~~
20 ~~relationship pursuant to chapter 572C~~];
- 21 (2) At least eighteen years of age; and



1 (3) Not related to the other proposed partner in the civil
2 union, as provided in section 572B-3."

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

5 "(b) Any judge or retired judge, including a federal judge
6 or judge of another state who may legally join persons in
7 chapter 572 or a civil union, may solemnize a civil union. Any
8 ~~[ordained or licensed member of the clergy]~~ minister, priest, or
9 officer of any religious denomination or society who has been
10 ordained or is authorized to solemnize civil unions according to
11 the usages of such denomination or society, or any religious
12 society not having clergy but providing solemnization in
13 accordance with the rules and customs of that society, may
14 solemnize a civil union. ~~[Solemnization may be entirely secular~~
15 ~~or may be performed according to the forms and usages of any~~
16 ~~religious denomination in this State. Nothing in this section~~
17 ~~shall be construed to require any person authorized to perform~~
18 ~~solemnizations of marriages or civil unions to perform a~~
19 ~~solemnization of a civil union, and no such authorized person~~
20 ~~who fails or refuses for any reason to join persons in a civil~~
21 ~~union shall be subject to any fine or other penalty for the~~
22 ~~failure or refusal.]"~~



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

3 "(a) No persons may be joined in a civil union in this
4 State unless both partners have:

5 (1) Met the requirements of section 572B-2;

6 (2) Complied with section 572B-6 and, if applicable,
7 section 572B-7; and

8 (3) Been issued a license by an agent [~~in the judicial~~
9 ~~circuit in which a civil union is to be solemnized or~~
10 ~~in which either person resides~~], which license shall
11 bear the certification of the agent that the persons
12 named therein have met the requirements of section
13 572B-2 and have complied with section 572B-6 and, if
14 applicable, section 572B-7."

15 SECTION 5. Section 572B-6, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) The fee for a license to enter into a civil union
18 shall be an amount equal to the amount prescribed in section
19 572-5, and all amounts collected by the agent or the department
20 of health as application fees under this chapter shall be
21 retained or remitted and apportioned in the same manner as
22 prescribed in section 572-5."



1 SECTION 6. Section 572B-8, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) Each person who solemnizes a civil union shall
4 certify upon the civil union license certificate [~~the fact,~~
5 ~~time, and place of the solemnization of the civil union]~~ all the
6 facts required to be stated in a standard certificate of civil
7 union, the form and contents of which shall be prescribed by the
8 department of health, and return the certificate to the [~~agent]~~
9 department of health within three business days following the
10 solemnization of the civil union, or as may otherwise be
11 prescribed by the department of health.

12 (b) If any person who has solemnized a civil union fails
13 to return the certificate to the [~~agent]~~ department of health as
14 required under subsection (a), the partners joined in a civil
15 union may provide the [~~agent]~~ department of health with a
16 notarized affidavit attesting to the fact that they were joined
17 in a civil union and stating the date and place of the
18 solemnization of the civil union. Upon the receipt of that
19 affidavit by the [~~agent,~~] department of health, the civil union
20 of the partners shall be deemed to be valid as of the date of
21 the solemnization of the civil union stated in the affidavit."



1 SECTION 7. Section 572B-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§572B-10[+]~~ **Civil unions performed in other**
4 **jurisdictions.** All unions entered into in other jurisdictions
5 between two individuals not recognized under section 572-3 shall
6 be recognized as civil unions; provided that the relationship
7 meets the eligibility requirements of this chapter, has been
8 entered into in accordance with the laws of that jurisdiction,
9 and can be documented~~[-]~~; and provided further that, if either
10 individual is a party to an existing reciprocal beneficiary
11 relationship pursuant to chapter 572C, the union shall not be
12 recognized as a civil union under this section until the
13 reciprocal beneficiary relationship is terminated."

14 SECTION 8. Section 572C-4, Hawaii Revised Statutes, is
15 amended to read as follows:

16 " ~~[+]§572C-4[+]~~ **Requisites of a valid reciprocal**
17 **beneficiary relationship.** In order to enter into a valid
18 reciprocal beneficiary relationship, it shall be necessary that:

- 19 (1) Each of the parties be at least eighteen years old;
20 (2) Neither of the parties be married ~~[ne]~~, a party to
21 another reciprocal beneficiary relationship~~[-]~~, or a
22 partner in a civil union;



- 1 (3) The parties be legally prohibited from marrying one
2 another under chapter 572;
- 3 (4) Consent of either party to the reciprocal beneficiary
4 relationship has not been obtained by force, duress,
5 or fraud; and
- 6 (5) Each of the parties sign a declaration of reciprocal
7 beneficiary relationship as provided in section 572C-
8 5."

9 SECTION 9. Section 572C-7, Hawaii Revised Statutes, is
10 amended by amending subsections (c) and (d) to read as follows:

11 "(c) [~~Any marriage license subsequently issued by the~~
12 ~~department to any individual registered as a~~] A reciprocal
13 beneficiary relationship shall automatically terminate [~~the~~
14 ~~individual's existing reciprocal beneficiary relationship.~~]
15 when:

- 16 (1) Either party to the reciprocal beneficiary
17 relationship enters into a marriage or civil union
18 solemnized by a person licensed by the department; or
- 19 (2) Either party to the reciprocal beneficiary
20 relationship enters into a union outside the State
21 that is recognized by law as a marriage or civil union
22 in the State.



1 (d) If either party to a reciprocal beneficiary
2 relationship enters into a legal marriage[~~-~~] or civil union, the
3 parties shall no longer have a reciprocal beneficiary
4 relationship and shall no longer be entitled to the rights and
5 benefits of reciprocal beneficiaries[~~-~~], except as provided in
6 section 572B-A."

7 SECTION 10. Section 574-1, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§574-1 Married persons[~~-~~]; civil union partners.** Upon
10 marriage or civil union, each of the parties to a marriage or
11 partners in a civil union shall declare the middle and last
12 names each will use as a married person[~~-~~] or civil union
13 partner. The last name or names chosen may be any middle or
14 last name legally used at any time, past or present, by either
15 spouse[~~-~~] or partner, or any combination of such names, which
16 may, but need not, be separated by a hyphen. The middle name or
17 names chosen may be any middle or last name legally used at any
18 time, past or present, by either spouse[~~-~~] or partner, or any
19 combination of such names, which may, but need not, be separated
20 by a hyphen."

21 SECTION 11. Section 574-5, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) It shall be unlawful to change any name adopted or
2 conferred under this chapter, except:

3 (1) Upon an order of the lieutenant governor;

4 (2) By a final order, decree, or judgment of the family
5 court issued as follows:

6 (A) When in an adoption proceeding a change of name
7 of the person to be adopted is requested and the
8 court includes the change of name in the adoption
9 decree;

10 (B) When in a divorce proceeding either party to the
11 proceeding requests to resume the middle name or
12 names and the last name used by the party prior
13 to the marriage or civil union or a middle name
14 or names and last name declared and used during
15 any prior marriage or civil union and the court
16 includes the change of names in the divorce
17 decree; or

18 (C) When in a proceeding for a change of name of a
19 legitimate or legitimated minor initiated by one
20 parent, the family court, upon proof that the
21 parent initiating the name change has made all
22 reasonable efforts to locate and notify the other



1 parent of the name change proceeding but has not
2 been able to locate, notify, or elicit a response
3 from the other parent, and after an appropriate
4 hearing, orders a change of name determined to be
5 in the best interests of the minor; provided that
6 the family court may waive the notice requirement
7 to the noninitiating, noncustodial parent where
8 the court finds that the waiver is necessary for
9 the protection of the minor;

10 (3) Upon marriage or civil union pursuant to section 574-
11 1;

12 (4) Upon legitimation pursuant to section 338-21; or

13 (5) By an order or decree of any court of competent
14 jurisdiction within any state of the United States,
15 the District of Columbia, the Commonwealth of Puerto
16 Rico, or any territory or possession of the United
17 States, changing the name of a person born in this
18 State.

19 Any law to the contrary notwithstanding, no person who is a
20 covered offender subject to the registration requirements of
21 section 846E-2 may obtain a name change, other than as provided
22 in paragraph (2), (3), (4), or (5), unless a court determines



1 that it is in the best interest of justice to grant the petition
2 and that doing so will not adversely affect the public safety."

3 SECTION 12. Section 580-1, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§580-1 Jurisdiction; hearing.** Exclusive original
6 jurisdiction in matters of annulment, divorce, and separation,
7 subject to section 603-37 as to change of venue, and subject
8 also to appeal according to law, is conferred upon the family
9 court of the circuit in which the applicant has been domiciled
10 or has been physically present for a continuous period of at
11 least three months next preceding the application therefor. No
12 absolute divorce from the bond of matrimony shall be granted for
13 any cause unless either party to the marriage has been domiciled
14 or has been physically present in the State for a continuous
15 period of at least six months next preceding the application
16 therefor. A person who may be residing on any military or
17 federal base, installation, or reservation within the State or
18 who may be present in the State under military orders shall not
19 thereby be prohibited from meeting the requirements of this
20 section. The family court of each circuit shall have
21 jurisdiction over all proceedings relating to the annulment,
22 divorce, and separation of civil unions entered into in this



1 State or unions recognized as civil unions in this State in the
2 same manner as marriages."

3 SECTION 13. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 14. This Act shall take effect retroactive to
6 January 1, 2012.



Report Title:

Civil Unions; Reciprocal Beneficiary Relationship; Religious Organizations

Description:

Amends various statutory provisions related to civil unions for clarity and conformity. Deletes the eligibility requirement for a civil union requiring termination of an existing reciprocal beneficiary relationship. Authorizes any licensing agent statewide to issue a civil union license. Authorizes the Department of Health to collect fees for civil union licenses. Makes a reciprocal beneficiary relationship automatically terminate upon either party entering into a civil union or marriage that is solemnized. Authorizes name change on the certificate of civil union. Confirms the family court has jurisdiction over the divorce, annulment, and separation of a union that is recognized as a civil union in this State. Effective retroactive to January 1, 2012. (HB2569 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

