

Honolulu, Hawaii

APR 05 2012

RE: H.B. No. 2569  
H.D. 2  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Health, to which was referred H.B. No. 2569, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CIVIL UNIONS,"

beg leave to report as follows:

The purpose and intent of this measure is to amend various statutory provisions to reconfirm and clarify the original intent of Act 1, Session Laws of Hawaii 2011. Specifically, this measure:

- (1) Exempts religious facilities from the prohibitions against discrimination in public accommodations;
- (2) Provides uninterrupted rights for a couple who terminates their reciprocal beneficiary relationship and enters into a civil union that is solemnized thereafter within a six-month period, or a couple who entered into a reciprocal beneficiary relationship in Hawaii and subsequently entered into a union outside of Hawaii that is legally recognized as a civil union in Hawaii;
- (3) Clarifies that the rights of property held in tenancy by the entirety to couples who terminated their reciprocal beneficiary relationships and entered into civil unions does not operate to terminate the tenancy by the entirety nor convert the tenancy by the entirety into a tenancy in common;



- (4) Adds clarifying language to the statutory requirements for a valid marriage contract and a valid reciprocal beneficiary relationship;
- (5) Adds clarifying language to the statutory requirements for the solemnization of a civil union, including persons who are authorized to solemnize a civil union and the reporting requirements of a civil union solemnization;
- (6) Recognizes legal unions validly performed in another state jurisdiction as valid civil unions in this State and requires that the union be treated the same as a civil union entered into in this State;
- (7) Authorizes the name change on the certificate of civil union; and
- (8) Confirms that the Family Court has jurisdiction over the divorce, annulment, and separation of a union that is recognized as a civil union in this State.

Your Committees received testimony in support of this measure from the Department of Health, American Civil Liberties Union of Hawaii, Pride at Work Hawaii, Equality Hawaii, Citizens for Equal Rights, and twenty-seven private individuals. Your Committees received testimony in opposition to this measure from the Hawaii Civil Rights Commission, Hawaii Family Forum, Honolulu Pride, Christian Voice of Hawaii, Hawaii Center for the Separation of State and Church, and eight private individuals. Your Committees received comments on this measure from the Department of the Attorney General, Hawaii Catholic Conference, Brigham Young University-Hawaii, and six private individuals.

Your Committees find that Act 1, Session Laws of Hawaii 2011, established the status of civil unions in this State, which granted eligible couples all the same rights, benefits, protections, and responsibilities under law, whether derived from statutes, administrative rules, court decisions, the common law, or any other source of civil law, as are granted to those who contract, obtain a license, and are solemnized pursuant to chapter 572, Hawaii Revised Statutes. Your Committees recognize that a collection of rights, benefits, and obligations applicable to married couples and families are woven into state law and through



Act 1, the Legislature intended that these rights and benefits be applied identically to civil union partners. This measure reconfirms and clarifies that intent.

Your Committees have amended this measure by:

- (1) Deleting the exemption for religious facilities from the prohibitions against discrimination in public accommodations;
- (2) Adopting the amendments suggested by the Department of the Attorney General to:
  - (A) Add clarifying language that provides uninterrupted rights for couples holding property in tenancy by the entirety who enter into a new legal relationship simultaneously with or within ninety days after the termination of an earlier legal relationship; provided that no liens were perfected and attached on the property in the interim;
  - (B) Amend language relating to the uninterrupted rights of persons who transition from a reciprocal beneficiary relationship to a civil union, to ensure that the rights held by reciprocal beneficiaries carry over to a civil union; provided that the reciprocal beneficiaries terminated their relationship simultaneously with their entry into a civil union;
  - (C) Extend the rights, benefits, protections, or responsibilities created by the solemnization of a civil union that were not included within a reciprocal beneficiary relationship to be recognized as of the date the civil union was solemnized;
  - (D) Allow couples who terminated their reciprocal beneficiary relationships after October 3, 2011, but before the effective date of this Act, and subsequently entered into civil unions no later than ninety days after their reciprocal beneficiary relationships terminated to have their rights held in the reciprocal beneficiary relationships carry over, uninterrupted to their civil unions,




including the rights as a result of holding property as tenants by the entirety; provided that no liens were perfected and attached on the property in the interim, effective retroactive to October 3, 2011; and

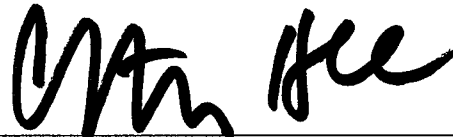
- (E) Allow reciprocal beneficiaries who, prior to the effective date of section 17, enter into a legal union in another jurisdiction that is not marriage as recognized in Hawaii but is equivalent to a civil union under Hawaii law, to have their legal union recognized as a civil union, effective upon approval of this measure; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2569, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2569, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committees on Judiciary and  
Labor and Health,



JOSH GREEN, M.D., Chair



CLAYTON HEE, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB2569, HD2	JDL/HTH	3/20/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike			✓	
IHARA, Jr., Les	✓			
SLOM, Sam			✓	
<b>TOTAL</b>	3		2	
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office            Drafting Agency            Committee File Copy				

\*Only one measure per Record of Votes

