

Honolulu, Hawaii

March 23, 2012

RE: S.B. No. 2571
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2571, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO DOMESTIC RELATIONS,"

begs leave to report as follows:

The purpose of this measure and intent of this measure is to:

- (1) Amend various statutory provisions to reconfirm and clarify the original intent of Act 1, Session Laws of Hawaii 2011, that civil union partners shall have all the same rights, benefits, protections, and responsibilities under the law as are granted to individuals who contract, obtain a license, and are solemnized pursuant to chapter 572, Hawaii Revised Statutes,;
- (2) Establish a transition provisions for individuals who terminate their reciprocal beneficiary relationship and enter into a civil union to ensure that both events occur substantially concurrently and that all rights, benefits, protections, and responsibilities under the reciprocal beneficiary relationship continue upon entering into the civil union;
- (3) Make various housekeeping amendments to relevant statutes, including those relating to public employee



benefits, property held as tenants by the entirety, parent-child relationships, and adoption to assist with the implementation and interpretation of Act 1, including by clarifying that any relevant gender-specific terms shall be construed to include civil union partners without the need to risk unintended consequences by amending all such references;

- (4) Clarifying the status in Hawaii of civil unions performed in other jurisdictions;
- (5) Clarifying the various statutory provisions relating to a parent-child relationship with respect to a child born or adopted prior to, during, or shortly after the termination of a civil union; and
- (6) Specifying that the provisions of the measure are retroactive to January 1, 2012.

The Department of Health, a member of the City Council of the City and County of Honolulu, Citizens for Equal Rights, Honolulu Pride, Pride At Work Hawai'i, Americans for Democratic Action/Hawaii, Equality Hawaii, Hawaii Women's Coalition, and several individuals testified in support of this measure. The Department of the Attorney General, Hawaii Civil Rights Commission, Hawaii Catholic Conference, Hawaii Family Forum, Polynesian Cultural Center, Chaminade University, Brigham Young University - Hawaii, and numerous individuals provided comments. Several individuals testified in opposition.

Your Committee has amended this measure by:

- (1) Adding a conscience provision exempting religious organization and associated institutions from civil liability for refusal to allow the use of their facilities for solemnization of a civil union;
- (2) Conforming the qualifications for a person who may solemnize a civil union to those used elsewhere in the Hawaii Revised Statutes;
- (3) Clarifying requirements for issuance of a license to enter a civil union;



- (4) Clarifying the Department of Health's authority to collect fees for a license to enter into a civil union;
- (5) Clarifying that to be joined in a reciprocal beneficiary relationship, a person cannot be party to a civil union;
- (6) Clarifying the procedure for name change to account for name changes upon entering a civil union;
- (7) Clarifying the jurisdiction of the courts to grant a divorce to partners in a civil union solemnized in another jurisdiction;
- (8) Clarifying the application of a presumption of parentage to parties to a civil union and their children;
- (9) Amending to October 3, 2011, the date of retroactive application for the continuity of benefits to persons who terminated a reciprocal beneficiary relationship and subsequently entered into a civil union within 90 days; and
- (10) Making technical, Nonsubstantive changes for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2571, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2571, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,


GILBERT KEITH-AGARAN, Chair



