

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2571

S.D. 1

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

Sir:

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

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the 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 law as are granted to those who contract, obtain a license, and are solemnized pursuant to chapter 572, Hawaii Revised Statutes;
- (2) Establish a transition period for two 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 statutes to assist with the implementation and interpretation of Act 1, including the laws relating to public employee benefits, property held as tenants by the entirety, parent-child relationships, and adoption; and



- (4) Make it retroactive to January 1, 2012.

Prior to the hearing on this measure, your Committee posted a proposed S.D. 1 for review and comments. This proposed measure makes further amendments to clarify and reconfirm the original intent of Act 1, Session Laws of Hawaii 2011, to:

- (1) Delete language that provided continuity of rights and benefits for couples who terminate their reciprocal beneficiary relationship and enter into a civil union substantially concurrently;
- (2) Delete the various housekeeping amendments to the laws relating to public employee benefits, employment practices, Land Court registration, real property transactions, and marriage contracts;
- (3) Clarify that any gender-specific terms referring to spouses or previous spouses shall be construed to include civil union partners to prevent unintended consequences that may occur as a result of amending all such references in the Hawaii Revised Statutes;
- (4) Clarify the provisions relating to a union performed in other jurisdictions; and
- (5) Amend 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.

Your Committee received testimony in support of the proposed S.D. 1 from the LGBT Rights Network, Equality Hawaii, and three private individuals. Testimony in opposition to the original measure was submitted by the Hawaii Family Forum. Your Committee received comments on this proposed S.D. 1 from the Hawaii Civil Rights Commission, the Hawaii Catholic Conference, and one private individual.

Your Committee finds 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 Committee recognizes 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 the original intent of Act 1, that civil union partners shall have all the same rights, benefits, protections, and responsibilities under law as are granted to those who contract, obtain a license, and are solemnized pursuant to chapter 572, Hawaii Revised Statutes.

Your Committee has amended this measure by adopting the proposed S.D. 1 and further amending this measure by:

- (1) Adding a new section to chapter 509, Hawaii Revised Statutes, to preserve a couple's tenancy by the entirety when the couple moves from one qualifying legal relationship to another, either concurrently or within ninety days;
- (2) Inserting language that makes certain rights, benefits, protections, or responsibilities of individuals created by a reciprocal beneficiary relationship accrue as of the start date of the reciprocal beneficiary relationship if the individuals terminate their reciprocal beneficiary relationship and enter into a civil union either simultaneously or ninety days immediately preceding their entry into a civil union;
- (3) Inserting a provision that restores continuity in reciprocal beneficiary rights and benefits for couples who terminated their reciprocal beneficiary relationships after November 1, 2011, but before the effective date of this measure and entered or enter into a civil union within ninety days after termination of their reciprocal beneficiary relationship;
- (4) Adding language that allows a reciprocal beneficiary couple who formed a legal union in another jurisdiction before the effective date of this measure that is substantially equivalent to a civil union under chapter 572B, Hawaii Revised Statutes, to voluntarily terminate their reciprocal beneficiary status before the legal



union will be mandatorily recognized as a civil union in this State no later than one year after this measure becomes effective; and

- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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

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



CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB2571	Committee Referral: JDL	Date: 2/29/12		
<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				✓
TOTAL	3	0	1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes