

The first gap problem arises from the period between the end of the reciprocal beneficiary relationship and the start of the civil union, a gap necessitated by current law that prevents those in reciprocal beneficiary relationships from obtaining licenses to enter civil unions. That gap will be eliminated by the passage of section 7 of this S.D. 1, which will end all transition problems for reciprocal beneficiaries who opt to enter a civil union after this bill becomes law on its enactment date, not effective date.

That leaves, however, the second gap problem.

The second gap problem applies to those couples who opt (or have already opted) to terminate their reciprocal beneficiary relationship and enter a civil union before this bill is enacted. Those couples may have already experienced a lapse in rights, benefits, protections, and responsibilities, due to the period between the termination of their reciprocal beneficiary relationship and their civil union when they had no legal relationship. To distinguish the second gap problem from the first, we will call the second gap problem "the open window." The first day to have entered a civil union was January 1, 2012, and some of the proposed amendments in this S.D. 1 (specifically those in sections 3 and 15) allow for a 90-day transition period between reciprocal beneficiary relationships and civil unions. Therefore, couples in reciprocal beneficiary relationships who entered into a civil union prior to enactment of this bill may have lost their reciprocal beneficiary benefits as early as October 3, 2011. Thus, the open window could occur anywhere between October 3, 2011, and the enactment date of this bill. Adjusting the effective dates of sections 2, 3, 15, and 16 of the bill¹ can address the open window problems for reciprocal beneficiaries who enter (or entered) a civil union before this bill becomes law on its enactment date not effective date.

For example, imagine there are two couples, both in reciprocal beneficiary relationships. Couple A terminates its reciprocal beneficiary relationship in the last week in December 2011, and Couple B terminates its relationship during the first week in January 2012. Each couple enters a civil union on January 20, 2012. Unless the retroactivity of this provision is extended further back than January 1, 2012, Couple A

¹ Specifically those in section 2, the second part of section 3 (page 4, line 16, through page 5, line 10), and section 15.

may not be covered even though both couples were attempting to use Act 1 in the same manner and entered into a civil union on the same date.

Thus, some sections need their own effective date and this could be addressed in the last section of the bill as follows:

SECTION 18. This Act, upon its approval, shall take effect retroactive to January 1, 2012, except sections 2, 15, and the second new section of chapter 572B, Hawaii Revised Statutes, added by section 3, shall be retroactive to ninety days before January 1, 2012, or October 3, 2011.

The 90-day transition period has been proposed as a reasonable amount of time to accommodate couples who need to process the termination of their reciprocal beneficiary relationships, obtain a license to enter a civil union, and have their civil union solemnized. After the first gap problem is eliminated, that 90-day period will no longer be necessary.

We emphasize that nothing in the adjusted effective date operates to confer any rights, benefits, protections, or responsibilities of civil unions prior to January 1, 2012, because the triggering event that makes these sections apply is the entering into a civil union, an event that could not have occurred prior to January 1, 2012. The earlier effective date merely assures that those couples in reciprocal beneficiary relationships, who were required to terminate their reciprocal beneficiary relationships in order to enter a civil union, lose none of the rights, benefits, protections, or responsibilities that they already had prior to entering a civil union.

Different effective date for the sections pertaining to tenancy by the entirety:

Couples in reciprocal beneficiary relationships are legally allowed to hold property jointly as tenants by the entirety, whereas unmarried couples or couples not in civil unions can only hold property jointly as tenants in common. Under current law, upon the termination of a reciprocal beneficiary relationship, and prior to entering a civil union, those couples who hold property as tenants by the entirety lose that property status. To regain it, they must redeed the property to themselves after entering a civil union. Sections 2 and 15 of the bill would allow the property status of reciprocal beneficiaries to continue, uninterrupted, so long as the couple enters a civil union within

90 days of termination of their reciprocal beneficiary relationship. The bill currently proposes an effective date that is retroactive to January 1, 2012 (the effective date of the civil union law in Hawaii). However, some of the sections in the bill need to become effective on the date of enactment of this bill, instead of on January 1, 2012.

Making sections 2 and 15 of the bill effective retroactive to January 1, 2012, might create a constitutional problem in those situations where liens were perfected against property held by individuals after the termination of the reciprocal beneficiary relationship, and before this bill becomes law. If a lien was perfected against the property before this bill becomes law, and the law would purport to go back in time to invalidate what was already a perfected lien, that would amount to an unconstitutional taking of property (i.e., of the perfected lien). Therefore, section 2 of the bill, applicable to the new section of chapter 509, Hawaii Revised Statutes (HRS), and section 15, applicable to continued, uninterrupted rights of reciprocal beneficiaries who enter civil unions, must be effective upon enactment, rather than the retroactive date of January 1, 2012. To correct this error, the last part of section 2 (page 3, line 19-21) should be amended to read: "Nothing in this section shall affect any liens perfected on the property after the earlier legal relationship was terminated and before this section became law under article III, section 16, of the Hawaii Constitution." Also, section 15 (page 24, lines 16-17) should be amended by replacing "but before this Act becomes effective" with "and before the date this measure becomes law pursuant to article III, section 16, of the Hawaii Constitution." Also, section 15 (page 25, lines 9-10) should be amended by replacing "but before this Act becomes effective" with "and before this section became law under article III, section 16, of the Hawaii Constitution."

Changes for clarity:

For clarity, and to ensure that the rights that couples had as reciprocal beneficiaries continue from the reciprocal beneficiary relationship start date instead of the date the civil union was solemnized, the retroactive effective date for sections 3 and 15 of the bill must be amended as discussed above. Section 3, at the second new section of chapter 572B, which specifically covers the continuity of rights of reciprocal

beneficiaries who enter civil unions, needs to be amended at page 5, line 3, to add "within the" as follows:

§572B-___ Rights held by reciprocal beneficiaries who enter a civil union. (a) If two reciprocal beneficiaries enter into a civil union with each other, the rights, benefits, protections, or responsibilities created by the reciprocal beneficiary relationship shall be continuous through the civil union and deemed to have accrued as of the first date these rights existed under the reciprocal beneficiary relationship; provided that the individuals terminated their reciprocal beneficiary relationship simultaneously with their entry into a civil union, or within the ninety days immediately preceding their entry into a civil union.

To make section 15 consistent with the retroactive effective date of October 3, 2011, its wording at page 24, line 16, needs to be amended to replace November 1, 2011, as follows:

SECTION 15. If two individuals terminated a reciprocal beneficiary relationship after [~~November 1, 2011~~] October 3, 2011, and before the date this [~~Act becomes effective~~] measure becomes law pursuant to article III, section 16, of the Hawaii Constitution, and the two individuals subsequently entered or enter into a civil union no later than ninety days after their reciprocal beneficiary relationship terminated, their reciprocal beneficiary relationship shall be deemed to continue uninterrupted until the civil union was or is solemnized. The couple shall suffer no loss or interruption of any rights, benefits, protections, or obligations derived from their reciprocal beneficiary relationship if they meet the requirements of this section. For purposes of this section, holding title to real or personal property as tenants by the entirety shall be included among the rights of a reciprocal beneficiary relationship that shall continue uninterrupted under this section; provided that no intervening liens were attached and perfected on the property after the reciprocal beneficiary relationship was terminated, [~~but before this Act becomes effective~~] and before this measure became law under article III, section 16, of the Hawaii Constitution.

Different effective date for section 16 pertaining to unions from other jurisdictions:

Section 16 addresses couples who entered a legal relationship in another jurisdiction before January 1, 2012, that is substantially equivalent to a civil union, and who also have a Hawaii reciprocal beneficiary relationship. As currently drafted, section 16 provides that the Hawaii reciprocal beneficiary relationship will terminate "on the voluntary termination of the reciprocal beneficiary relationship under section 572C-7, Hawaii Revised Statutes, but no later than one year after this Act becomes effective."

But if, before enactment of this bill, a couple in a Hawaii reciprocal beneficiary relationship entered a relationship elsewhere that is substantially equivalent to a civil union, the couple cannot have both relationships recognized in Hawaii prior to the enactment of this bill. For example, imagine two couples, both with Hawaii reciprocal beneficiary relationships. Couple A enters a substantially equivalent union in another state in December 2011. Couple B does the same, but in January 2012. Under current law (section 572B-10, HRS), there is no automatic termination of the reciprocal beneficiary relationship. This bill's amendments to section 572C-7, HRS, (section 7 of the bill) would change that, and the termination would operate automatically. By keeping section 16 retroactive to January 1, 2012, Couple B would be excluded from section 16 and the bill would retroactively terminate their reciprocal beneficiary relationship, but not Couple A, who would be permitted to choose the time of termination as best suits their property or other needs. Given that the law regarding their reciprocal beneficiary relationships was the same when the out-of-state relationship was entered into, implementation of this provision should be consistent for all couples in this position, which would be consistent for ease of administration (as well as equitable). The last change is necessary to give the affected persons a full year in which to make these arrangements; otherwise it will be only a few months, from the date of signature to one year after the effective date of the bill (i.e., January 1, 2013).

Like those sections affecting tenancy by the entirety, to address these problems section 16 should be amended to read as follows:

SECTION 16. [~~If,~~] Notwithstanding section 572C-7, Hawaii Revised Statutes, if before the date this [Act becomes effective] measure becomes law pursuant to article III, section 16, of the Hawaii Constitution, two individuals entered into a valid legal union in another jurisdiction that is not a marriage subject to chapter 572, Hawaii Revised Statutes, and is substantially equivalent to a civil union under chapter 572B, Hawaii Revised Statutes, and are also parties to a reciprocal beneficiary relationship in this State, the reciprocal beneficiary relationship shall terminate and their valid legal union entered into in another jurisdiction shall be recognized as a civil union under section 572B-10, Hawaii Revised Statutes, on the voluntary termination of the reciprocal beneficiary relationship under section 572C-7, Hawaii Revised Statutes, but no later than one year after [~~this Act becomes effective~~] the date this

measure becomes law pursuant to article III, section 16, of the Hawaii Constitution.

Conforming amendments to chapter 584, HRS:

Based on section 4's amendment of chapter 584, HRS, the Uniform Parentage Act, by the addition of a new section relating to presumption of parentage relating to children of parents in a civil union, there are other sections of chapter 584 where conforming amendments are needed so that references to a civil union partner who is presumed to be the parent of a child are included. Needed amendments are appended to this testimony.

APPENDIX: Proposed conforming amendments to chapter 584, Hawaii Revised Statutes:

§584-1 Parent and child relationship defined. As used in this chapter, "parent and child relationship" includes the legal relationship existing between a child and the child's natural mother, between a child and father whose relationship as parent and child is established under this chapter, between a child and parent whose relationship as parent and child is established under this chapter, or between a child and the child's adoptive parents, incident to which the law confers or imposes rights, privileges, duties, and obligations.

§584-3 How parent and child relationship established. The parent and child relationship between a child and:

- (1) The natural mother may be established by proof of her having given birth to the child, or under this chapter;
- (2) The natural father may be established under this chapter;
- (3) A presumed parent may be established under this chapter;
- ~~[3]~~(4) An adoptive parent may be established by proof of adoption.

§584-6.5 Temporary support order based on probable paternity or parentage. In all contested paternity actions where a presumption of paternity as defined in section 584-4, or where a presumption of parentage as defined in section 584- exists, upon motion by a party, the court shall order temporary support for the child pending a judicial determination of parentage.

§584-8.5 Paternity or parentage determinations from other states and territories. Paternity or parentage determinations from other states and territories, whether established through voluntary acknowledgment or through administrative or judicial processes, shall be treated the same as a paternity or parentage adjudication in this State.

§584-9 Parties; guardian ad litem for minor presumed or alleged father; county attorney or corporation counsel to represent custodial parent or agency; notice to parents. (a) The child may be made a party to the action and may be represented by the child's general guardian or a guardian ad litem appointed by the court. The child's mother or father shall not represent the child as guardian or otherwise. Subject to section 584-6(e), the natural mother, each man presumed to be the father under section 584-4, each man alleged to be the natural father, each person presumed to be the parent under section 584-, and the child support enforcement agency, if public assistance moneys are or have been paid for the support of the subject child, shall be made parties, or, if not subject to

the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard.

(b) If it appears to the satisfaction of the court that the natural mother or a man alleged or presumed to be the father of the child is a minor, the court shall also cause notice of the pendency of the proceedings and copies of the pleadings on file to be served upon the legal parent or guardian who has physical custody of the minor. The court may appoint a guardian ad litem to represent the minor in the proceedings. If the legal parent or guardian of any such minor cannot be found, the notice may be served in such manner as the court may direct pursuant to sections 634-21 to 634-24. The court may align the parties.

(c) The county attorney or corporation counsel, upon request of the child support enforcement agency, shall represent the child support enforcement agency. Fees may be charged of the applicant for child support enforcement agency's services as provided for by chapter 576D.

§584-10 Pretrial proceedings. As soon as practicable after an action to declare the existence or nonexistence of the father and child relationship or the existence or nonexistence of the parent and child relationship has been brought, an informal hearing shall be held. The public shall be barred from the hearing. A record of the proceeding or any portion thereof shall be kept if any party requests, or the court orders. Rules of evidence need not be observed.

§584-13 Pretrial recommendations. (a) On the basis of the information produced at the pre-trial hearing, the judge conducting the hearing shall evaluate the probability of determining the existence or nonexistence of the father and child relationship or the parent and child relationship in a trial and whether a judicial declaration of the relationship would be in the best interest of the child. On the basis of the evaluation, an appropriate recommendation for settlement shall be made to the parties, which may include any of the following:

- (1) That the action be dismissed with or without prejudice;
- (2) That the matter be compromised by an agreement among the alleged father, the mother, or the parent and the child, in which the father and child relationship or the parent and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father or alleged parent in favor of the child and, if appropriate, in favor of the mother, subject to approval by the judge conducting the hearing. In reviewing the obligation undertaken by the alleged father or the alleged parent in a compromise agreement, the judge conducting the hearing shall consider the best interest of the child, in the light of the factors enumerated in section 576D-7, discounted by the improbability, as it appears to him, of

establishing the alleged father's paternity or nonpaternity of the child or the alleged parent's parentage or nonparentage in a trial of the action. In the best interest of the child, the court may order that the alleged father's or alleged parent's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father or alleged parent and disburse on behalf of the child all amounts paid by the alleged father or alleged parent in fulfillment of obligations imposed on ~~him~~ the alleged father or alleged parent; or

(3) That the alleged father or alleged parent voluntarily acknowledge ~~his~~ the alleged father's or alleged parent's paternity or parentage of the child.

(b) If the parties accept a recommendation made in accordance with subsection (a), judgment shall be entered accordingly.

(c) If a party refuses to accept a recommendation made under subsection (a) and genetic tests, including blood tests have not been taken, the court shall require the parties to submit to genetic tests, if practicable. Thereafter the judge shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action shall be set for trial.

(d) The guardian ad litem may accept or refuse to accept a recommendation under this section.

(e) The informal hearing may be terminated and the action set for trial if the judge conducting the hearing finds it unlikely that all parties would accept a recommendation he might make under subsection (a) or (c).

§584-15 Judgment or order. (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued under section 584-23.

(c) The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Upon neglect or refusal to give this security, or upon default of the ~~father or the father's~~ parent or the parent's surety in compliance with the terms of the judgment, the court may order the forfeiture of any such security and the application of the proceeds thereof toward the payment of any sums due under the terms of the judgment and may also sequester the ~~father's~~ parent's personal estate, and the rents and profits of the ~~father's~~ parent's real estate, and may appoint a receiver thereof, and may cause the ~~father's~~ parent's personal estate, including any salaries, wages,

commissions, or other moneys owed to ~~[him]~~ the parent and the rents and profits of ~~[his]~~ the parent's real estate, to be applied toward the meeting of the terms of the judgment, to the extent that the court, from time to time, deems just and reasonable. The judgment or order may direct the ~~[father]~~ parent to pay the reasonable expenses of the mother's pregnancy and confinement, including but not limited to medical insurance premiums, such as for MedQuest, which cover the periods of pregnancy, childbirth, and confinement. The court may further order the noncustodial parent to reimburse the custodial parent, the child, or any public agency for reasonable expenses incurred prior to entry of judgment, including support, maintenance, education, and funeral expenses expended for the benefit of the child.

(d) Support judgment or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support. The court may limit the ~~[father's]~~ parent's liability for past support of the child to the proportion of the expenses already incurred that the court deems just.

(e) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall use the guidelines established under section 576D-7. Provision may be made for the support, maintenance, and education of an adult or minor child and an incompetent adult child, whether or not the petition is made before or after the child has attained the age of majority.

(f) Whenever a parent of a child is a minor, unmarried, and not able to provide full support, the court may order one or both parents of the minor to support the child until the minor reaches the age of majority, is otherwise emancipated, or is financially able to fully support the child, whichever occurs first. For this purpose:

- (1) The judgment or order for support shall be made against the parent or parents of the minor to the extent that the minor is unable to support the child;
- (2) The resources, standard of living, and earning ability of the parent or parents of the minor shall be considered under subsection (d) in determining the amount of support; and
- (3) The parent or parents of the minor shall be an obligor under this chapter and chapter 571 and any action against the obligor to collect support may be pursued against the parent or parents of the minor.

§584-17 Enforcement of judgment or order. (a) If existence of the ~~[father]~~ parent and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the ~~[father]~~ parent may be enforced in

the same or other proceedings by the mother, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent the person has furnished or is furnishing these expenses.

(b) The court may order support payments to be made to the mother, the child support enforcement agency, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(c) Wilful failure to obey the judgment or order of the court shall be a civil contempt of the court. All remedies for the enforcement of judgments shall apply to this chapter. When a court of competent jurisdiction issues an order compelling a parent to furnish support, including child support, medical support, or other remedial care, for the parent's child, it shall constitute prima facie evidence of a civil contempt of court upon proof that:

- (1) The order was made, filed, and served on the parent or proof that the parent was present in court at the time the order was pronounced; and
- (2) The parent did not comply with the order.

An order of civil contempt of court based on prima facie evidence under this subsection shall clearly state that the failure to comply with the order of civil contempt of court may subject the parent to a penalty that may include imprisonment or, if imprisonment is immediately ordered, the conditions that must be met for release from imprisonment. A party may also prove civil contempt of court by means other than prima facie evidence under this subsection.

§584-20 Hearings and records; confidentiality. (a)

Notwithstanding any other law concerning public hearings and records, any hearing or trial held under this chapter shall be held in closed court without admittance of any person other than those persons necessary to the action or proceeding. All papers and records pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the department of health or elsewhere, shall be subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

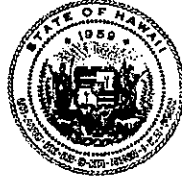
(b) Upon paternity or parentage being established, the confidentiality requirement shall not extend to the judgment and all subsequently filed documents that are used in good faith for support and medical expenses, insurance, or enforcement purposes, except that the confidentiality requirement shall continue to apply to any references to a non-adjudicated alleged or presumed father or parent.

§584-22 Promise to render support. (a) Any promise in writing to furnish support for a child, growing out of a supposed or alleged father and child relationship or parent and child relationship, shall not require consideration and shall be enforceable according to its terms.

(b) In the best interest of the child or the mother or parent, the court may, and upon request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

§584-23.5 Paternity or parentage judgment, acknowledgment, support order; social security number. The social security number of any individual who is subject to a paternity or parentage judgment or acknowledgment, or support order issued under this chapter shall be placed in the records relating to the matter.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House Committee on Judiciary

March 16, 2012

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

SB2571 SD1

**WRITTEN
ONLY**

- 1 **Department's Position:** Supports
- 2 **Fiscal Implications:** Undetermined
- 3 **Purpose and Justification:** The Department of Health supports SB2571, which clarifies various
- 4 aspects of Act 1 of 2011 to ensure civil union partners have all the same rights, benefits, protections, and
- 5 responsibilities under law as married couples.
- 6
- 7 However, the Department defers to the Attorney General on the legal aspects of this bill.



HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 16, 2012
2:00 p.m.
Conference Room 325

To: The Honorable Gilbert Keith-Agaran, Chair
and Members of the House Committee on Judiciary

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai'i Civil Rights Commission

Re: S.B. No. 2571, S.D.1

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai'i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

The original S.B. No. 2571 sought to amend various statutory provisions to reconfirm and clarify the original intent of Act 1 (2011) that civil union partners shall have all the same rights, benefits, protections and responsibilities under the law that are granted to those who marry. Specifically, section 12 of S.B. No. 2571 sought to amend H.R.S. §378-2 to add civil union status as a protected basis under the state's fair employment practices law. Section 18 of the bill similarly sought to amend H.R.S.

§ 515-3 to add civil union status as a protected basis under the state's fair housing law.

S.B. No. 2571, S.D.1 deletes these amendments because it is already clear from H.R.S. §572B-11 that the marital status protections under H.R.S. Chapters 378 and 515 apply to civil union partners, and the clarification is unnecessary. The HCRC agrees that such amendments are not necessary and does not oppose S.B. 2571, S.D.1.

Testimony of City Councilwoman Tulsi Gabbard
Regarding Senate Bill 2571

Thank you for the opportunity to submit this testimony in favor of SB 2571, a bill that will strengthen and clarify the Civil Unions law.

I believe this legislation is important to ensure that the Civil Unions law continues to provide our people with the freedom and equality that was intended when it was passed last year.

I support SB 2571 because I believe that the Civil Unions law must be as effective and strong as possible.

In fact, I believe that any couple that goes into the courthouse should come out with the same paperwork, regardless of their sexual orientation.

SB 2571 is an important step in the right direction.

Freedom and equality for any of us requires freedom and equality for all of us. I urge you to vote in favor of this bill.

EQUALITY HAWAII

Friday, March 16, 2012 • 2 p.m. • House Conference Room 325
Testifying in Support of SB2571 SD1 On Behalf of Equality Hawaii

Aloha, Chairman Keith-Agaran, Vice Chair Rhoads & Judiciary Committee Members:

Thank you for allowing Equality Hawaii to testify in support of SB2571 and the proposed SD1.

As the state's largest lesbian, gay, bisexual and transgender organization, Equality Hawaii has fielded a large volume of inquires from our members with questions and concerns about Act 1, which SB2571 and the recommended SD1 addresses.

This bill - with the proposed amended language - seals gaps found in Act 1 that could leave many couples entering into a civil union at risk ... risks that could be eliminated through these administrative clarifications.

A few examples:

- **Parenthood.** SB2571 SD1 clarifies many issues surrounding children born into a civil union and adoption by couples in a civil union. These amendments strengthen Hawaii's families and clear up many ambiguities that could have devastating effects.
- **Sealing Gaps For Couples Leaving A Reciprocal Beneficiary Relationship (RBR).** Couples currently in a RBR are required per Act 1 to terminate their RBR in order to apply for a civil union license. This creates a "gap period" in between the time the RBR is terminated and the civil union is solemnized, causing the couple to forfeit all of their previous legal rights and protections, which could have potential catastrophic consequences relating to health care, inheritance, medical decision making, and real estate tenancy to name just a few examples. Clearly stating that an RBR will terminate upon solemnization of the civil union erases this gap and guarantees no couple at risk.
- **Out-Of-State Relationships.** SB2571 and the suggested SD1 clarifies which out-of-state unions are recognized as civil unions in Hawaii. Many couples in Hawaii have entered into marriages, civil unions, and domestic partnerships from other jurisdictions and have endured a sense of limbo regarding their legal status since Act 1 took effect. This elucidation would allow these families to make informed decisions about their rights and existing legal arrangements.

We also appreciate this bill's preamble which clarifies that it is not the legislature's intent to deny a civil union any of the rights, responsibilities or benefits afforded to marriage simply because those rights, responsibilities or benefits may not be explicitly referenced.

Equality Hawaii believes that passing this bill this the suggest SD1 will allow for a smoother implementation of Act 1. We respectfully request that you consider amending and passing this bill.

Mahalo for allowing us to testify.

Aloha,
Scott Larimer
Co-Chair
Equality Hawaii

Jeff Esmond
Legislative Affairs Co-Chair
Equality Hawaii



HAWAII CATHOLIC CONFERENCE
6301 Pali Highway
Kaneohe, HI 96744-5224

Email to: JUDtestimony@Capitol.hawaii.gov
Hearing on: Friday, March 16, 2012 @ 2:00 p.m.
Conference Room # 325

DATE: March 13, 2012

TO: Committee on Judiciary
Representative Gilbert Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

FROM: Walter Yoshimitsu, Executive Director

RE: Comments on SB 2571 SD1 Relating to Domestic Relations

Honorable Chairs and members of the House Committee on Judiciary, I am Walter Yoshimitsu, representing the Hawaii Catholic Conference. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in the State of Hawaii, which under the leadership of Bishop Larry Silva, represents Catholics in Hawaii.

This testimony will not focus on the merits of civil unions in Hawaii as this legislature has already decided to establish them. Our testimony today focuses on the protections that need to be provided to those religious organizations that have objections to civil unions for religious reasons. As we stated in the testimony we submitted on HB 2569 HD1, the language presently contained in HRS Chapter 572B-4(c) is very weak and we are concerned about the effect it will have on us as a religious institution.

Many churches and religious organizations continue to be very concerned about the impact of the civil union law on both our organizations and the religious freedom rights of individuals.

We ask that you add the same protection language to SB 2571 SD1 as you placed in HB 2659 HD1. However, as churches are NOT public accommodations, the language would serve us best if it is placed in HRS Chapter 572B and not in HRS Chapter 489 as it currently stands in HB 2659 HD2.

Mahalo for the opportunity to testify.



Email to: JUDtestimony@Capitol.hawaii.gov
Hearing on: March 16, 2012 @ 2:00 p.m.
Conference Room #325

DATE: March 13, 2012

TO: House Committee on Judiciary
Representative Gilbert Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

FROM: Allen Cardines, Jr., Executive Director

RE: Comments on SB 2571 SD1 Relating to Domestic Relations

Honorable Chairs and members of the House Committee on Judiciary, I am Allen Cardines, representing the Hawaii Family Forum. Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii, representing a network of various Christian Churches and denominations.

Let's be clear at the forefront that the Hawaii Family Forum remains staunchly opposed to the recent establishment of civil unions in Hawaii. We strongly believe, and have stated on the record, that the legalization of these "unions" were just a step toward the legal recognition of same-sex "marriage" in Hawaii. Recent news stories and even public statements by supporters of civil unions have reiterated the fact that they are not satisfied.

The stated purpose of this bill is to fix deficiencies in Act 001 (2011). One serious deficiency with Act 001 is the lack of protections of religious institutions in the use of their property. You remedied that deficiency in HB 2659 HD1 and we appreciated that inclusion; however, we strongly disagree with the placement of the protection language under public accommodations in HD2 as Churches are NOT public accommodations.

If you must pass this bill out of committee, we ask that you add into this bill (SB 2571 SD1) the same protections to HRS Chapter 572B as you did in HB 2659 HD1.

Mahalo for the opportunity to testify.

Citizens for Equal Rights

PO BOX 240908,
Honolulu, HI 96804-0908
www.equality808.com
808-271-7833

Friday March 16, 2012 Time: 2:00 p.m.

State Capitol
Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

RE: Senate Bill 2571 Proposed SD1 (SSCR2457) - Relating to Domestic Relations – Support

To: Representative Gilbert S.C. Keith-Agaran, Chair
 Representative Karl Rhoads, Vice Chair
 Members of the Committee

Aloha Chair Keith-Agaran, Vice Chair Rhoads and Committee Members,

My name is Tambry R. Young, and I was a member of the Civil Unions Implementation Task Force (CUTF) and am the current President of Citizens for Equal Rights (CFER). The CUTF was established last session to address implementation process issues surrounding Act 1 relating to Civil Unions. The CUTF consisted of staff members from the Attorney General's office, personnel from the Department of Health, and members of the legislature, the Hawaii Tourism Authority and LGBT organizations.

The CUTF met several times last year to address issues associated with the development of a Civil Union and Marriage licensing process that went live at 12:00 a.m. on January 1, 2012. This online process has made it much more convenient for those wanting to obtain a Marriage or Civil Union license and has been successful in addressing the purpose for the CUTF.

Along with the implementation process, the task force was also able to discuss areas within Act 1 that could be made clearer, consistent and more appropriate. A sub-committee was established to look into various Statutes that relate to Act 1 and to propose legislation, which is being presented here.

In regards to children this bill will assist in the recognition and validation of the LGBT family unit by the establishment of the parent and child relationship aspects presented. It also assists in clarifying and developing language that address issues of adoption for LGBT couples. For the many couples here in Hawaii clarifying the law in these areas brings an element of security which helps in building a stronger foundation and bond for all of the members within the family unit.

In regards to tenants by the entirety this bill also assist in removing the potential of vulnerability for couples who own property when changing from a reciprocal beneficiary status to a civil union status.

CFER stands in support of SB 2571 SD1 and thank you for this opportunity to testify.

Tambry R. Young
President - Citizens for Equal Rights
Member - Civil Unions Task Force

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WWW,HONOLULUPRIDEPARADE.ORG — HONOLULUPRIDEPARADE@GMAIL.COM

March 15, 2012

Friday, March 16, 2012 - 2:00 p.m.
House Judiciary Committee
State Capitol RM 325
415 South Beretania Street
Honolulu, HI 96813

RE: Senate Bill 2571 SD 1 RELATING TO DOMESTIC RELATIONS - STRONG SUPPORT

Aloha Chair Keith-Agaran and fellow committee members,

On behalf of Honolulu Pride we would like to say Mahalo for hearing Senate Bill 2571 SD 1.

So we ask that you make it better, make it right and pass SB 2571 SD 1 with the changes suggested by the AG's office and the LGBT Rights Network the because it helps fix the imperfections in Act 1 - 2011 as well as the right thing to do.

Mahalo for the opportunity to testify,

Rob Hatch
Legislative Representative



Lesbian, Gay, Bisexual, and Transgender Workers and Allies

March 16, 2012

House Committee on Judiciary
Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair

Testimony in STRONG SUPPORT of SB 2571 SD1 relating to domestic relations

Dear Chair Keith-Agaran, Vice Chair Rhoads, and Committee members:

Pride At Work Hawai'i, an affiliate of the Hawai'i State AFL-CIO which works to mobilize lesbian, gay, bisexual, and transgender (LGBT) workers and their supporters for full equality and to build mutual support between the labor movement and the LGBT community, strongly supports SB 2571 SD1, which seeks to clarify and confirm Act 1 of 2011.

This bill provides necessary amendments to state law to ensure that the broad mandate of Act 1 establishing civil unions is fulfilled. As this Committee so clearly stated last year when it passed the bill that was ultimately enacted, the intent was that the measure would be "liberally construed to provide equality of rights, benefits, protections, and responsibilities to the partners of a civil union." Preparation for and implementation of Act 1 led to the identification of several areas of the law needing amendment to ensure this equality, which this bill represents.

Members of our board have participated in legal and community discussions about this and related bills and strongly support SB 2571 SD1 in its current form. We ask that any further amendments to SB 2571 SD1 be in conformance with Act 1's history and that efforts to weaken the equality of civil unions be soundly rejected.

We recognize and appreciate the integral role that this Committee has had in the passage of civil unions in Hawai'i. Our membership is thrilled that their committed relationships can now be recognized and granted equality of rights, benefits, protections, and responsibilities. Act 1 has meant securing health care benefits for one's partner, ability to be secure when making long-term life decisions, and immeasurable support from family members for relationships that have legal significance.

Mahalo for the opportunity to testify.

Testimony for SB2571 on 3/16/2012 2:00:00 PM

Testimony for SB2571 on 3/16/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Wednesday, March 14, 2012 2:52 PM

To: JUDtestimony

Cc: barbarapolk@hawaiiantel.net

Testimony for JUD 3/16/2012 2:00:00 PM SB2571

Conference room: 325

Testifier position: Support

Testifier will be present: Yes

Submitted by: Barbara Polk

Organization: Americans for Democratic Action/Hawaii

E-mail: barbarapolk@hawaiiantel.net

Submitted on: 3/14/2012

Comments:

Americans for Democratic Action/Hawaii strongly supports SB2571 SD1 that makes changes necessary to carry out the intent of Act 1 of the 2011 legislature.



POLYNESIAN CULTURAL CENTER

55-370 Kamehameha Highway Laie, Hawaii 96762

March 15, 2012 Phone: 808-293-3000 Fax: 808-293-3022 www.polynesia.com

House Committee on Judiciary
Representative Gilbert Keith Agaran, Chair
Representative Karl Rhoads, Vice Chair

Re: Comments on SB 2571 SD1 Relating to Domestic Relations
Hearing: Friday, March 16, 2012, 2:00 p.m., Conference Room 325, State Capitol,
415 S. Beretania Street, Honolulu

Dear Committee Chair, Vice Chair and Committee Members,

On behalf of the Polynesian Cultural Center, I appreciate the opportunity to provide comments related to SB 2571 SD1 (Relating to Domestic Relations) and I thank the House Committee on Judiciary for considering these comments.

The aforementioned legislation seeks to add clarity to the original intent of Act 1 (2011). One area of deficiency that requires clarity is the lack of protections of religious institutions in the use of their property. SB 2571 must protect religious organizations and religious-affiliated organizations by including a clear and strong exception that allows such organizations to practice their religion by limiting use of their properties for activities consistent with their beliefs.

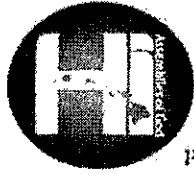
We ask that a religious exemption be inserted to SB 2571 similar in language to the exemption stated in HB 2569 HD2 (§489), but with added clarification to include religious organizations AND religious-affiliated organizations. This critical insertion will serve to ensure the First Amendment's guarantee of the right of assembly and freedom of religion. Please note that the Polynesian Cultural Center is part of the BYU-Hawaii campus and we share, in meaningful ways, a common mission.

Thank you for your time and consideration of this important matter,

Von D. Orgill
President & CEO

A non-profit organization
dedicated to preserving the
cultural heritage of Polynesia
while providing educational
opportunities for students at
adjointing Brigham Young
University-Hawaii.

Founded in 1963 by the
Church of Jesus Christ
of Latter-day Saints.



Hawaii Assemblies of God

Rev. George K. Nagato, D.Min., District Superintendent

87-125 Maipuhua Road · Waiānae, Hawaii 96792

Phone: (808) 668-8800 · Fax: (808) 668-8892 · Email: hawaiiuog@hawaii.rr.com · www.hiaog.org

March 14, 2012

Aloha Representatives Keith-Agaran and Rhoads,

As a local pastor (32 years at Paradise Chapel in Waiānae) and district superintendent (Hawaii Assemblies of God) to which I oversee 75 churches in the state of Hawaii, I submit this letter as a written expression of my thoughts in addressing the issues regarding the recognizing of civil unions in Hawaii and the language of SB2571 SD1.

I am vehemently opposed the recent establishment of civil unions in Hawaii but I do appreciate the wording that SB2571 SD1 states that a licensed solemnizer could refuse to selmnize a civil union. However, I am deeply concerned that this bill offers NO protection for our churches should this minister/church deny a request by a same sex couple to rent our sanctuary or facilities for use in the solemnization and celebration of the civil union. I am requesting that you clearly articulate protection for our churches on SB2571 SD1.

I whole-heartedly support the work of organizations such as the Hawaii Family Forum in addressing the needs on behalf of many voices in our aloha state and strongly encourage you to respond positively to their efforts to keep the laws of our state from becoming a thorn to the majority.

I thank you for your diligent service to our state and for expending your time in hearing and understanding my position as you act upon this law and any future changes to the civil union status in Hawaii. May God's favor and wisdom be your portion as you make pivotal decisions that will chart the course of Hawaii's future.

Aloha Pumehana,

Dr. George Nagato

Ua Mau Ke Ea O Ka Aina I Ka Pono O Iesu Kristo
"The Life of the Land is Perpetuated by the Righteousness of Jesus Christ"

SB2571 SD1 testimony from concerned citizen TO Rep Keith-Agaran and Roadsh

SB2571 SD1 testimony from concerned citizen TO Rep Keith-Agaran and Roadsh

Steven S. Saito [stevensaito@byrealty.net]

Sent: Wednesday, March 14, 2012 3:58 PM

To: JUDtestimony; Rep. Gilbert Keith-Agaran; Rep. Karl Rhoads

March 14, 2012

Dear Representatives Keith-Agaran and Rhoads,

I would like to submit this letter as my written testimony addressing the issues regarding civil unions in Hawaii and the language of SB2571 SD1.

I agree with the bill allowing licensed solemnizer the right to refuse to solemnize a civil union.

At the same time however, the bill offers NO protection for churches should the minister/church refuse a request by a same sex couple to rent the chapel, hall and kitchen for use in the solemnization and celebration of the civil union. I ask you add language to the bill that will protect ministers/churches from having to violate their belief in God.

I believe that organizations like Hawaii Family Forum addresses the need of many voices (Christians and non-Christians) and urge to respond favorably in keeping our laws in Hawaii from becoming burdensome to the majority.

Thank you very much for taking the time read and share my testimony.

Sincerely,

Steven S. Saito

March 14, 2012

Aloha Representatives Keith-Agaran and Rhoads,

As a local pastor and regional pastor of the Calvary Chapel's Hawaii which oversees twenty-three plus Calvary Chapel's and pastors in the State of Hawai'i, I would like to submit this letter to you as a written testimony of my thoughts in addressing the issues regarding the recognizing of civil unions in Hawai'i and the language of SB2571 SD1.

Even though I stand fully opposed to the recent establishment of civil unions in Hawai'i, I do appreciate the fact that SB2571 SD1 states that a licensed solemnizer could refuse to solemnize a civil union. However, I am gravely concerned because this bill offers NO protection for our churches should this minister/church refuse a request by a same sex couple to rent the chapel, hall and kitchen for use in the solemnization and celebration of the civil union.

I also fully support the work of groups, such as the Hawai'i Family Forum in addressing the needs on behalf of many voices in our great state and encourage you to respond positively to their efforts to keep the laws of our state from becoming burdensome to the majority.

Mahalo for your service to our state and for your time in considering my views as you act upon this law and any future changes to the civil union status in Hawai'i. May God bless your faithfulness to trust Him.

Aloha in Christ,



Pastor Bill Stonebraker
98-1016 Komo Mai Drive
Aiea, Hawaii 96701
Tel: (808) 524-0844
Email: billstonebraker@calvarychapel.com

Hearing Date
March 16, 2012
2:00pm
Conference Room 325

To: Gilbert S.C. Keith-Agaran, Chair and Members of the Committee on Judiciary

From: Megan Bircher-Craviotto, University of Hawaii, School of Social Work Student

Re: SB 2571

As a University of Hawaii School of Social Work student, I believe it is imperative that every person is equally protected under Hawaii state laws. This is fundamental to human rights. In a State as diverse as Hawaii, the importance to protect and celebrate all types of diversity is paramount. I support SB 2571 as it allows for increased clarity and understanding of the scope of civil unions. It is critical that even with, civil unions already established, that those in civil unions rights are protected and the following family implications will continue to be upheld and protected.

With this greater clarity and detail parents and children in civil unions will be better protected by law. SB 2571 is not only better for the persons in the civil unions but better for the children in these relationships because it will allow for the idea of "parents" to be more clearly defined. Children will be less likely to be separated from an adult they have come to know as a parent either by blood relation or otherwise.

In conclusion, I strongly support the idea that those in civil unions should be entitled to the same rights, benefits, protections, and responsibilities under law as persons involved in marriages. I believe further clarification of these rights is important in preventing those who oppose civil unions to misinterpret the meaning and goals of the originally enacted law.

Thank you for the opportunity to testify in support of SB 2571.

Respectfully,

Megan Bircher-Craviotto
University of Hawaii
School of Social Work

SB2571 SD1

SB2571 SD1

kamikawa [mpastor1@hawaii.rr.com]

Sent: Wednesday, March 14, 2012 10:31 PM

To: JUDtestimony; Rep. Gilbert Keith-Agaran; Rep. Karl Rhoads

Cc: allen@hawaiifamilyforum.org

March 14, 2012

Dear Representatives Keith-Agaran and Rhoads,

I am an ordained minister who performs Christian marriages in the State of Hawai'i, and submit this correspondence as written testimony regarding the recognition of civil unions in Hawai'i and the language of SB2571 SD1.

First, I continue to oppose civil unions as flawed legislation, because there should be no exclusions from anyone desiring a civil union for economic benefits if it is truly a civil rights issue. In actuality, this is a veiled attempt to redefine what was previously defined as immoral sexual behavior into moral. Human communities without a moral compass will do what is right in their own eyes, or choose to associate with sub-communities sharing the same beliefs. Thus, sleeping with multiple partners is moral among swingers, or consuming human meat moral among cannibals. Does an individual have the right, even the choice, to remain committed to one partner in a swingers community, or to be vegetarian in a cannibalistic society? I believe in a free society, even with those abnormal moral standards, those choices would be preserved.

In addressing SB2571 SD1, thankfully, the choice is preserved for a licensed Solemnizer to refuse to solemnize a civil union. However, as currently crafted the unintended consequence of SB2571 SD1 would be the loss of choice to the church or religious facilities to refuse service to a same sex couple desiring to rent facilities in the solemnization and associated celebration of the civil union. This would clearly force the church or religious facility to host and accommodate an event that is morally unacceptable.

I pray that you seek the truth on such critical matters, and recognize how we have been misguided in being led down wrong paths that are leading to the destruction of the moral fabric under which we have traditionally grown and prospered. In this regard, Hawai'i Family Forum has been established as a voice for providing revelation of the incredible blessings of the LORD in healing, restoring and prospering our islands as we seek to obey and trust Him.

Thank you for your service and may you truly consider my views as expressed in this email. May you see yourselves not as politicians, but identify yourselves as statesmen for perpetuating the righteousness of this land.

Maluhia,

Kurt Kamikawa
mpastor1@hawaii.rr.com

Aloha Representatives Tsuji, Herkes and Coffman,

As a local pastor of Solid Rock Ministries on the Big Island of Hawaii, an Assemblies of God church with a congregation of 1000, I would like to submit this letter to you as a written testimony of my thoughts in addressing the issues regarding the recognizing of civil unions in Hawai'i and the language of SB2571 SD1.

Even though I stand fully opposed to the recent establishment of civil unions in Hawai'i, I do appreciate the fact that SB2571 SD1 states that a licensed solemnizer could refuse to solemnize a civil union. However, I am gravely concerned because this bill offers NO protection for our churches should this minister/church refuse a request by a same sex couple to rent the chapel, hall and kitchen for use in the solemnization and celebration of the civil union.

I also fully support the work of groups, such as the Hawai'i Family Forum in addressing the needs on behalf of many voices in our great state and encourage you to respond positively to their efforts to keep the laws of our state from becoming burdensome to the majority.

Mahalo for your service to our state and for your time in considering my views as you act upon this law and any future changes to the civil union status in Hawai'i. May God bless your faithfulness to trust Him.

Aloha Pumehana,

James "Tex" Texeira
Lead Pastor
Solid Rock Ministries
75-5699 Kopiko Street
Kailua Kona, HI 96740

RE SENATE BILL 2571 PROPOSED SD1

RELATING TO DOMESTIC RELATIONS

OPPOSE SUBJECT TO ADDITIONAL ADMENDMENTS

TO: COMMITTEE ON JUDICIARY AND LABOR

REPRESENTATIVE GIL-KEITH AGARON, CHAIR

REPRESENTATIVE, KARL RHOADS, VICE CHAIR

Aloha Chair Keith-Agaron, Vice Chair Rhoads and Committee Members.

My name is Jonathan Durrett, a private attorney with 30 years of civil experience and senior partner in the Honolulu law firm of Durrett, Rosehill & Ma, LLLP. I have a broad background in the representation of nonprofit and tax exempt organizations many of which are secular and others of which are faith based. Most of the organizations I have been affiliated with provide incalculable benefits to our community, relieving the burdens that government would otherwise have without the altruism of their respective missions.

Many charitable entities operate in affiliation with churches, synagogues or other religious organizations. As such they are duty bound by conscience to uphold the precepts of their sponsoring religions as they go about fulfilling their charitable work. Such organizations enjoy the strongest constitutional protections our country can accord by virtue of the First Amendment religious freedom liberties enunciated by our Founding Fathers.

I am giving this testimony to call your Committee's attention to the United States Supreme Court's most recent religious liberty decision in Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission et al., 565 U.S. ____ 2012. In this January 11, 2012 decision, a **unanimous court** weighed the claim of a religious school teacher for wrongful termination under the Americans with Disabilities Act against the religiously affiliated school's First Amendment right to hire and terminate whomsoever it pleased for religiously related positions at the school. Citing a centuries old ministerial exception, the court held that Hosanna Tabor's right to terminate the religious teacher was within the province of the school's religious freedom of worship and that such a decision could not be overturned by what the EEOC perceived to be invidious discrimination under ADA regulations. Called by several commentators the most momentous religious liberty decision in our time, **Hosanna-Tabor** could not make more clear the import legislative bodies must give to

the civil rights interests of religious organizations to freedom of worship and association in enacting legislation which might conceivably violate these First Amendment interests.

Under the holding in *Hosanna-Tabor*, SB 2571, in its present version, is constitutionally infirm. This is due to the legislature's failure to ensure an unambiguous religious exception to religious organizations and their affiliates as it relates to use of their religious properties and facilities. Moreover, a federal civil rights action by a religious organization against the State or its Civil Rights Commission would most certainly lead to an order granting the religious organization injunctive relief and an award of attorney's fees under present federal civil rights statutes.

Fortunately your Committee's undertaking to implement necessary technical amendments to Act 1 through the vehicle of SB 2751 also provides a timely opportunity to amend the bill further to include a religious exception which will immunize its implementation from attack by religious organizations and their affiliated entities.

I implore your Committee to carefully review the ramifications of the *Hosanna-Tabor* decision before you pass out SB 2571 without a clear religious exception for the use of facilities and property owned by religions and their affiliated organizations.

Thank you for providing me this opportunity to give what I hope you will regard as constructive commentary to strengthen the pending legislation.



March 14, 2012

Aloha Representatives Keith-Agaran and Rhoads,

As General Manager of KLHT Radio Honolulu (and a local pastor), which connects hundreds of churches and pastors, and represents the common beliefs of thousands of kama'aina in the State of Hawai'i, I would like to submit this letter to you as a written testimony of my thoughts in addressing the issues regarding the recognition of civil unions in Hawai'i and more specifically the language of SB2571 SD1.

Even though I stand in staunch opposition to the recent establishment of civil unions in Hawai'i, I do appreciate the fact that SB2571 SD1 states that a licensed solemnizer could refuse to solemnize a civil union without the threat of penalty. However, I am gravely concerned that this bill offers NO protection for our churches or church resources should this minister/church refuse a request by a same sex couple to rent the chapel, hall, kitchen and/or grounds for use in the solemnization and/or celebration of the civil union. As your constituents, we are strongly urging you to protect our religious liberties, which are under threat in lieu of civil unions in Hawaii.

I would also like to note my respect, appreciation and full support for the work of groups, such as the Hawai'i Family Forum, in addressing these issues on behalf of many voices in our great state and I would further encourage you to respond positively to their efforts to keep the laws of our state from becoming burdensome to the majority.

Mahalo for your service to our state and for your time in considering my views as you act upon this law and any future changes to the civil union status in Hawai'i. May you seek God for wisdom and peace and trust Him.

Aloha & Agape,
Jake O'Neill
General Manager, KLHT Radio Honolulu
808.524.1040
jake@klight.org
www.klight.org 'Hawaii's Pure Light'

"So faith comes by hearing & hearing by the word of Christ." Romans 10:17



760 halekauwila street
honolulu, hawai'i 96813-3544
eOlaNui@gmail.com
808.782.5329
www.OlaNui.com

15 March, 2012

Judiciary Committee
House of Representatives
JUDtestimony@Capitol.Hawaii.gov

worship with us on Sundays
@ 9 a.m.

RE:SB 2571 SD1

15 March 2012 • 2:00 p.m. Hearing • Room 315

serve Christ and others
with us all week long

Aloha Chairperson Keith-Aragan, Vice-Chair Rhodes, and
members of the House of Representative Judiciary Committee;

walter agena
rick lazor
ronald shiira
elders

Mahalo nui loa for your service to Hawai'i and for your hard work this session.

I am writing to ask that important changes be made to SB2571 SD1 Relating to Domestic Relations.

While the current draft of the bill provides some measure of protection to clergy and pastors such as myself who hold conscientious objections to civil unions and homosexual "marriage" in general, the current language does not go nearly far enough to provide the safeguards necessary to truly protect churches and Christian institutions related to their rights to use their property consistent with the message they proclaim and the glory of Jesus Christ, our Lord.

One has only to review recent questionable judicial opinions across the nation to conclude that the right of faith communities to practice and promulgate their beliefs MUST be thoroughly protected.

The physical plant and property a church may lease or own is paid for and maintained by the tithes and offerings of Christians who give gifts to Christ with the understanding that those funds will be used for the furtherance of the Good News of Christ. It should be expected then that such use of property would at least support the church's purposes and most certainly should not counter them. That being the case, it is difficult for me to conceive of how the church of Jesus Christ could be seen as a "public accommodation" in the sense assumed by this legislation.

The church does not require the public to accept our beliefs about what the Bible teaches on the nature of marriage and the family (though one could argue that society would be in much better shape if it did). So certainly, the public hasn't the right to require the church to "accommodate" (physically or philosophically) whatever new social whim society decides to chase, especially when it violates all that the Bible stands for in defining marriage.

I have always objected to the legalization of civil unions in the State of Hawai'i and in my testimony in years past, I often expressed the opinion that such a development was nothing more than "greasing the wheels" toward eventual attempts to legalize same-sex "marriage." I think it's rather clear today that what was once only a humble opinion can certainly (and unfortunately) be recognized now as fact. The ink was hardly dry on Governor Abercrombie's signature last year before strident voices began demanding that civil unions were not enough.

So while I sincerely wish that we were not even at the place where we need to be discussing "housekeeping" on a misguided statute, I nevertheless applaud the work of the House in moving toward more acceptable conscience protections. But please include the church and Christian institutions in this protection and not only ministers.

Mahalo for your service and your willingness to hear the public on this matter. I am grateful for the opportunity to present this opinion.

Sincere aloha!

(signed)

Rick Lazor, M.S.W.
OlaNui!

OFFICE OF THE PRESIDENT



March 14, 2012

House Committee on Judiciary
Representative Gilbert Keith Agaran, Chair
Representative Karl Rhoads, Vice Chair

RE: Comments on SB 2571 SD1 Relating to Domestic Relations
Hearing: Friday, March 16, 2012, 2 PM, Conference Room 325, State Capitol, 415 S. Beretania St.

Dear Committee Chair, Vice Chair and Committee Members:

On behalf of Brigham Young University–Hawaii (Laie), I appreciate the opportunity to provide comments related to SB 2571 SD1 (Relating to Domestic Relations), and I thank the House Committee on Judiciary for considering these comments.

The aforementioned legislation seeks to add clarity to the original intent of Act 1 (2011). One area of deficiency that requires clarity is the lack of protections of religious institutions in the use of their property. SB 2571 must protect religious organizations and religious-affiliated organizations by including a clear and strong exception that allows such organizations to practice their religion by limiting use of their properties for activities consistent with their beliefs.

We ask that a religious exemption be inserted to SB 2571 similar in language to the exemption stated in HB 2569 HD2 (§489), but with added clarification to include religious organizations AND religious-affiliated organizations. This critical insertion will serve to ensure the First Amendment's guarantee of the right of assembly and freedom of religion.

Thank you for your time and consideration of this important matter,

A handwritten signature in black ink that reads "Steven C. Wheelwright". The signature is written in a cursive style.

Steven C. Wheelwright
President

Testimony SB2571 SD1

Testimony SB2571 SD1

Lani Larrua [lanilarrua@gmail.com]

Sent: Thursday, March 15, 2012 9:47 AM

To: JUDtestimony; Rep. Denny Coffman; Rep. Robert Herkes; Rep. Clifton K. Tsuji; Rep. Karl Rhoads; Rep. Gilbert Keith-Agaran

March 15, 2012

Aloha Representatives Tsuji, Herkes and Coffman,

As a local pastor of Abundant Life Ministries on the Big Island of Hawaii in Waikoloa with a congregation of 200 and as a member of the Hawaii District Assemblies of God serving as the State Director of the Hawaii Women of Purpose with over 10,000 members, I would like to submit this letter to you as a written testimony of my thoughts in addressing the issues regarding the recognizing of civil unions in Hawai'i and the language of SB2571 SD1.

Even though I stand fully opposed to the recent establishment of civil unions in Hawai'i, I do appreciate the fact that SB2571 SD1 states that a licensed solemnizer could refuse to solemnize a civil union. However, I am gravely concerned because this bill offers NO protection for our churches should this minister/church refuse a request by a same sex couple to rent the chapel, hall and kitchen for use in the solemnization and celebration of the civil union.

I also fully support the work of groups, such as the Hawai'i Family Forum in addressing the needs on behalf of many voices in our great state and encourage you to respond positively to their efforts to keep the laws of our state from becoming burdensome to the majority.

Mahalo for your service to our state and for your time in considering my views as you act upon this law and any future changes to the civil union status in Hawai'i. May God bless your faithfulness to trust Him.

To Your Success,



Lani Larrua

State Director Hawaii Women of Purpose

Abundant Life Ministries-Lead Pastor

Cell: 808-960-1388

E-mail: lanilarrua@gmail.com

www.abundantlifewaikoloa.com

Email: JUDtestimony@Capitol.hawaii.gov

Hearing on: March 16, 2012 @ 2:00 p.m.

Conference Room #325

DATE: March 15, 2012

TO: House Committee on Judiciary
Representative Gilbert Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

FROM: Janell Baisa Purdy

RE: Comments on SB 2571 SD1 Relating to Domestic Relations

Honorable Chairs and members of the House Committee on Judiciary, I am Janell Baisa Purdy, **representing my family and stand in agreement with the Hawaii Family Forum.** I am a wife, mother, daughter, sister, aunty and friend. I value family and for many years have been ignorant to what was going on in our blessed State of Hawaii, but no more. Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii, representing a network of various Christian Churches and denominations.

We strongly oppose the recent establishment of civil unions in Hawaii. We strongly believe that the legalization of these "unions" were just a step toward the legal recognition of same-sex "marriage" in Hawaii.

The stated purpose of this bill is to fix deficiencies in Act 001 (2011). One serious deficiency with Act 001 is the lack of protections of religious institutions in the use of their property. You remedied that deficiency in HB 2659 **HD1** and we appreciated that inclusion; however, we strongly disagree with the placement of the protection language under public accommodations in **HD2** as Churches are NOT public accommodations.

Our nation started out as a place of refuge for the religiously oppressed. Our forefathers simply wanted the freedom to be able to practice their faith without being harassed, manipulated and controlled. We need to protect our Churches from being harassed, manipulated, and controlled.

If you must pass this bill out of committee, we ask that you add into this bill (SB 2571 SD1) the same protections to HRS Chapter 572B as you did in HB 2659 HD1.

Mahalo for the opportunity to testify.



Veryl Henderson, Executive Director-Treasurer
Direct: (808) 356-8329
Cel: 721-6723
veryl@hpbaptist.net

March 15, 2012

Aloha Representatives Keith-Agaran and Rhoads,

As an elected leader of the Hawaii Pacific Baptist Convention representing 142 southern Baptist congregations in the Pacific and 119 in the State of Hawai'i, I submit this letter to you recording my thoughts on the issues of recognizing civil unions in Hawai'i and the language of SB2571 SD1.

Even though I stand fully opposed to the recent establishment of civil unions in Hawai'i, I do appreciate the fact that SB2571 SD1 states that a licensed solemnizer could refuse to solemnize a civil union. However, I am gravely concerned because this bill offers NO protection for our churches or religious institutions should this minister/church refuse a request by a same sex couple to rent the chapel, hall, facilities and kitchen for use in the solemnization and celebration of the civil union.

I also fully support the work of groups, such as the Hawai'i Family Forum in addressing the needs on behalf of many voices in our great state and encourage you to respond positively to their efforts to keep the laws of our state from becoming burdensome to the majority.

Mahalo for your service to our state and for your time in considering my views as you act upon this law and any future changes to the civil union status in Hawai'i. May God bless your faithfulness to trust Him.

Aloha in Christ,

Veryl Henderson

Churches in the Pacific Impacting the World

2042 Vancouver Drive, Honolulu, Hawaii 96822-2491
Phone: (808) 946-9581 / Fax: (808) 941-2309 / Website: www.hpbaptist.net

Subject: Testimony SB2571 SD1

Subject: Testimony SB2571 SD1

Renee Godoy [reneegodoy8@gmail.com]

Sent: Thursday, March 15, 2012 3:38 PM

To: JUDtestimony; Rep. Denny Coffman; Rep. Robert Herkes; Rep. Clifton K. Tsuji; Rep. Karl Rhoads; Rep. Gilbert Keith-Agaran

Cc: Allen [allen@hawaiifamilyforum.org]

Aloha Representatives Tsuji, Herkes and Coffman,

Thank you for your faithful service to our community. I am a pastor of a church on the Big Island and an active and concerned member of our community.

I am writing to address concerns I have about the language of bill SB2571 SD1 I that is currently being considered. As an opponent of civil unions, I am thankful for the protection it affords me from being forced to perform a ceremony that is against my beliefs. However, I am concerned that the protection is not comprehensive enough and am in agreement with recommendations that are being made by Hawaii Family Forum.

I would appreciate it if you would take into consideration the concerns and objections of the religious segment of your community as you discuss the future of this bill.

Respectfully Submitted,

Pastor Renee D. Godoy

Glad Tidings Church

113 Kuawa St.

Hilo, HI 96720

Testimony for SB2571 on 3/16/2012 2:00:00 PM

Testimony for SB2571 on 3/16/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 15, 2012 5:20 PM

To: JUDtestimony

Cc: coffee@heavenlyhawaiian.com

Testimony for JUD 3/16/2012 2:00:00 PM SB2571

Conference room: 325
Testifier position: Comments Only
Testifier will be present: No
Submitted by: David Bateman
Organization: Individual
E-mail: coffee@heavenlyhawaiian.com
Submitted on: 3/15/2012

Comments:
March 15, 2012

Chair Keith-Agaran and Vice Chair Rhoads and Members:

I am writing today with comments concerning SB 2571 SD1. I request that, if you move SB 2571 SD 1 out of committee, that there be changes to the existing language.

First I suggest that there be no reference to Chapter 489 concerning discrimination in "Public Accommodations." Churches and church property should not be incorporated within the definition of a public accommodation, as they are not unconditionally open to the general public. Religious freedoms contained within the First Amendment to the US Constitution confirm this. Article 1, Section r of the Hawaii Constitution also confirms this.

Second, I suggest that the following language be added to SB 2571 SD1 to clarify the protections afforded religious solemnizers and their property and facilities:

"Notwithstanding any other provision of law, a religious organization may deny use of a religious facility for solemnization and/or celebration of a civil union. No religious organization that denies use of its religious facility to solemnize and/or celebrate a civil union shall be subject to any liability at law, wither fine, penalty, or any civil action. A 'religious facility' means a facility owned or leased by a religious organization that is regularly used for the worship or ministry activities in the religious work of the organization."

Much of this same exemption language is contained in HB 2569 HD 1.

These additions will protect the rights of those religious solemnizers who are compelled to the opposite point of view on the issue of civil unions. This will also help prevent later unnecessary legal conflict on the issue.

Thank you for considering my written testimony.

David Bateman
Holualoa HI 96725

Testimony for SB2571 on 3/16/2012 2:00:00 PM

Testimony for SB2571 on 3/16/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 15, 2012 1:03 PM

To: JUDtestimony

Cc: haverlyk@gmail.com

Testimony for JUD 3/16/2012 2:00:00 PM SB2571

Conference room: 325

Testifier position:

Testifier will be present: Yes

Submitted by: Kealii Haverly

Organization: Individual

E-mail: haverlyk@gmail.com

Submitted on: 3/15/2012

Comments:

Aloha House Judiciary Committee:

As a member of the Koolauloa community, please be advised of my opposition of the measure to accept SB 2571 as is, and please recognize that the bill should be ammended to allow for religious entities the proper exemption.

I believe it is my right under the first amendment to practice my religion freely by being able to go to a place that is allowed to practice what they want to practice, and not allow things they do not agree with. Forcing this upon a religious institution seems so contrary to the first Amendment.

As someone who does not see personal benefit to Civil Unions, but has interacted with a significant amount of people who personally would benefit from Civil Unions and/ or Same Sex Marriage, they shared with me that it is never their intent to force their practices or views on to others, especially other religions. This comes from family members, friends, and community members. These family members, friends and community members must not represent the majority, but they do to me.

Please don't force this on me and my family. Please don't waste taxpayer's dollars by creating yet another law that will need to be fully defined in years upon years of legal wrangling in the courts. Please save our money and spend it where it's needed, and keep Hawaii a land that protects First Amendment rights.

Mahalo.

SB2571 SD1

SB2571 SD1

dttomita@hawaiiantel.net [dttomita@hawaiiantel.net]

Sent: Thursday, March 15, 2012 12:47 PM

To: JUDtestimony; Rep. Denny Coffman; Rep. Robert Herkes; Rep. Clifton K. Tsuji; Rep. Karl Rhoads; Rep. Gilbert Keith-Agaran; allen@hawaiifamilyforum.org

Cc: allen@hawaiifamilyforum.org

Attachments: 2012 Civil Unions Bill SB~1.doc (48 KB)

March 15, 2012
RE: SB2571 SD1

Aloha Representatives Tsuji, Herkes and fellow members of the Committee on Judiciary:

My wife and I have been Big Island residents and registered voters since 1987. Since 1984, I have served as mission pastor of the Hawaii Kai Baptist Church in East Honolulu, mission pastor of the Kona Baptist Church and since 1995 have served as senior pastor of the Kionoole Baptist Church here in Hilo. However my Island roots go much deeper. I was born and raised on the island of Maui and graduated from the University of Hawaii at Manoa in 1995 with a bachelor's degree in Business Administration. I studied for four years on the mainland to earn my Master's degree in theology and returned to the Islands in 1984. For almost sixty years, my love for Hawaii and its people have been a driving passion as I serve God and share His gospel of salvation through Jesus Christ His Son. Presently, our church averages 90-100 attendees each Sunday and serves the greater Hilo community with our weekday afterschool and summer program, presently licensed for 60 Kindergarten - 8th grade children.

I have serious concerns regarding civil unions in Hawai'i, the language of SB2571 SD1 and how this impacts my role as pastor here in Hilo. I stand fully opposed to the recent establishment of civil unions in Hawaii. I believe that the homosexual community want more than equal rights and has as its primary goal to redefine biblical marriage (between one man and one woman for life as clearly seen in the Holy Bible) to include unions between two men or two women and this I cannot support. I do appreciate the fact that SB2571 SD1 states that a licensed solemnizer could refuse to solemnize a civil union. However, this bill offers NO protection for our churches should this minister/church refuse a request by a same sex couple to rent the chapel, hall and kitchen for use in the solemnization and celebration of the civil union. I have been licensed by the State of Hawaii to perform weddings since 1984 and I need your committee to put the necessary safeguards to protect our rights to refuse requests to use our church facilities in ways that we cannot in good conscience support. Please honor the trust we have in you to protect our rights to the use of our property as we morally see fit.

I also fully support the work of the Hawai'i Family Forum and other family advocacy groups and encourage you to respond positively to their efforts to keep the laws of our state from becoming burdensome to the majority of its residents to accommodate the vocal minority. Thank you for your consideration of my concerns.

Testimony for SB2571 on 3/16/2012 2:00:00 PM

Testimony for SB2571 on 3/16/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 15, 2012 5:26 PM

To: JUDtestimony

Cc: jackieb@hmhb-hawaii.org

Testimony for JUD 3/16/2012 2:00:00 PM SB2571

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Jackie Berry

Organization:

E-mail: jackieb@hmhb-hawaii.org

Submitted on: 3/15/2012

Comments:

Please pass this bill.

Testimony for SB2571 on 3/16/2012 2:00:00 PM

Testimony for SB2571 on 3/16/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Friday, March 16, 2012 12:52 AM

To: JUDtestimony

Cc: annfreed@hotmail.com

Testimony for JUD 3/16/2012 2:00:00 PM SB2571

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Ann S Freed

Organization: Individual

E-mail: annfreed@hotmail.com

Submitted on: 3/16/2012

Comments:

The Women's Coalition is in strong support of this bill to aid in the implementation of the civil unions act.

Mahalo for allowing us to testify,

Ann S. Freed

Co-Chair Hawai'i Women's Coalition

From: Mark Wolfersberger [mark.wolfersberger@byuh.edu]
Sent: Friday, March 16, 2012 8:53 AM
To: JUDtestimony
Subject: Testimony for SB 2571

Testifier: Mark Wolfersberger, PhD
Comments directed to: The House Judiciary Committee
Date and time of Hearing: Friday, March 16, 2012 at 2:00 pm
Measure number: SB 2571

Gilbert Keith-Agaran, Senate Judiciary Chair,

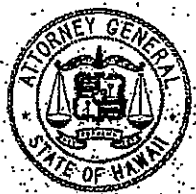
I am writing in support of the exemption proposed by the State Attorney General to SB 2571. According to the record of the Attorney General's testimony, the proposed amendment allows an exemption to religious organizations because of a conflict between their beliefs and civil unions. Passing bill SB 2571 without this exemption impinges on religious freedom and rights and is grounds to have the bill struck down. Please include with SB 2571 the exemption as proposed by the Attorney General. It reads:

“*489- Access and use of public accommodations owned or operated by religious organizations. Notwithstanding any other provision of law, a place of public accommodation owned and operated by a religious organization or leased, operated, and controlled by a religious organization need not be offered for the solemnization of a civil union or the celebration of a civil union, if that use of the facility would be in violation of the religious organization's beliefs. Any refusal to provide access to such a public accommodation in accordance with this section shall not create any civil claim or cause of action, or result in any penalty to, or withholding of benefits from, the religious organization.”

(See page 3 of the attached document.)

Thank you for considering this critical exemption and protecting our freedoms.

Mark Wolfersberger
53-972 Kamehameha Hwy.
Hauula, HI 96717



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:
H.B. NO. 2569, H.D. 1, RELATING TO CIVIL UNIONS.

BEFORE THE:
HOUSE COMMITTEE ON FINANCE

DATE: Thursday, February 23, 2012 **TIME:** 6:00 p.m.
LOCATION: State Capitol, Room 308
TESTIFIER(S): David M. Louie, Attorney General, or
Jill T. Nagamine, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General appreciates and agrees with this bill's intent, which is to allow for improved and effective implementation of the civil union law. However, we have several concerns about this draft of the bill and provide the following comments and suggestions.

The purpose of this bill is to amend various statutory provisions relating to civil unions to conform to the intent of the Legislature in enacting chapter 572B, Hawaii Revised Statutes (HRS), and to allow for improved and effective implementation of the civil union law. Our main concerns are: (1) addressing the legal gap in benefits for couples in reciprocal beneficiary relationships who must terminate their reciprocal beneficiary relationship prior to entering a civil union; and (2) ensuring that clarifications made to the civil union law do nothing to weaken the meaning of the law itself.

Concerns relating to reciprocal beneficiary relationships:

Section 1 of the bill would add a new section to chapter 572B (section 572B-A, HRS) to address the legal gap between the termination of a reciprocal beneficiary relationship, and the commencement of a civil union. While the intent of this section is admirable, it does not achieve the intended result in all circumstances. Under the proposed amendment, the gap is only effectively nullified upon solemnization of a civil union within six months of the termination of a reciprocal beneficiary relationship. If such a solemnization does not occur for any reason, including the death of one of the parties to the terminated reciprocal beneficiary relationship, the gap still exists, and cannot be closed. Additionally, proposed section 9, which would amend

section 572C-7, HRS, would effectively remove the gap by automatically terminating a reciprocal beneficiary relationship at the point of solemnization of a civil union, thus making this portion of section 1 (proposing new section 572B-A, HRS) unnecessary.

As we testified before the House Committee on Judiciary, we believe the better method to eliminate the gap between the termination of a reciprocal beneficiary relationship and the start of a civil union would be to allow couples in reciprocal beneficiary relationships, who would otherwise be eligible to enter a civil union, to do so without terminating their reciprocal beneficiary relationship first. This could be done by deleting the prohibition from section 572B-2, as is proposed in section 2 of the new draft, and allowing couples in reciprocal beneficiary relationships to enter into civil unions with each other.

Section 8 of House Draft 1 would amend section 572B-10, HRS, by requiring manual termination of a reciprocal beneficiary relationship in Hawaii to validate a civil union entered in a different jurisdiction. This conflicts with proposed section 9, which would amend section 572C-7, HRS, to allow automatic termination upon solemnization or recognition of civil unions. As long as the eligibility requirements for recognition of civil unions from other jurisdictions are met, there does not appear to be a need to require this extra step for those couples who are in reciprocal beneficiary relationships. Requiring the couple to manually terminate rather than have an automatic termination by operation of law could cause confusion and perhaps lead to the existence of conflicting statuses. We recommend against the proposed amendment to section 572B-10.

Concerns relating to use of facilities:

Section 1 of House Draft 1 would also add a new section (section 572B-B) to chapter 572B, HRS, to purportedly clarify that a religious organization is not required to make its facilities available for a civil union solemnization, provided that the facility is not a place of public accommodation. If the intent is to allow religious organizations an exemption from the public accommodations law found in chapter 489, HRS, the proposed new section falls short. Chapter 489, HRS, prohibits unfair discriminatory practices in places of public accommodation, including discrimination on the basis of sexual orientation (see section 489-3, HRS). Places of public accommodation include businesses whose facilities are made available to the general public. To the extent that religious organizations offer any of their facilities for use to the public,

they are by definition places of public accommodation that are subject to chapter 489, HRS. For religious organizations to lawfully deny use of their facilities for purposes that conflict with their religious beliefs, an exception would have to be added to the public accommodations law. House Draft 1 would only allow religious organizations to deny use of a religious facility for the solemnization of a civil union, but not for any other reason a couple in a civil union might want to use the facility, such as a reception celebrating a newly entered civil union.

If the Legislature intends to allow religious organizations to deny the use of their facilities for civil union solemnizations or celebrations because such events would conflict with their religious beliefs, a better way of doing so would be to amend chapter 489, HRS. For example, one possible way would be to add a new section to chapter 489, HRS, similar to what has been done in other states (see D.C. Code § 46-406 (West 2012), N.H. Rev. Stat. Ann. § 457:37 (West 2012), and Vt. Stat. Ann. tit. 9 § 4502 (West 2012)). We suggest the following wording:

"§489- Access and use of public accommodations owned or operated by religious organizations. Notwithstanding any other provision of law, a place of public accommodation owned and operated by a religious organization or leased, operated, and controlled by a religious organization need not be offered for the solemnization of a civil union or the celebration of a civil union, if that use of the facility would be in violation of the religious organization's beliefs. Any refusal to provide access to such a public accommodation in accordance with this section shall not create any civil claim or cause of action, or result in any penalty to, or withholding of benefits from, the religious organization."

Other concerns with the bill:

Section 3 of the bill would amend section 572B-4(b), HRS, to expand the list of members of the clergy who are authorized to solemnize civil unions to include the same people who are authorized to solemnize marriages. If expansion of the list of members of the clergy is the purpose of this section, it accomplishes its purpose. If it is the intent of this section to make marriage solemnizers and civil union solemnizers the same, this wording does not accomplish that, because under the current law judges who perform civil unions can include federal or state

judges from other states, whereas judges who perform marriages must be of a state or federal court in the State of Hawaii.

Section 5 of the bill would clarify that in addition to the agent, the Department of Health is authorized to collect directly the fee for the civil union license. Before the advent of online application procedures that expedite the licensing process in part by requiring payment of fees directly to the Department of Health online, agents were historically assigned the Department of Health's task of collecting license fees. This amendment would clarify that the Department of Health is authorized to collect those fees directly. The amendment, however, is unnecessary due to the Department of Health's existing authority to collect fees pursuant to section 321-1(g), HRS. It also would create a problem because, without also making a similar amendment to the marriage statute to clarify that the Department of Health can collect online fees for marriage licenses, there would be possible confusion about the Department of Health's authority to collect fees for marriage licenses. Authority already exists for the Department of Health to collect fees, so we recommend this amendment be omitted.

Section 7 of the bill would amend section 572B-10, HRS, by requiring manual termination of a reciprocal beneficiary relationship in Hawaii to validate a civil union entered in a different jurisdiction. This conflicts with proposed provisions that would allow automatic termination upon solemnization or recognition of civil unions. As long as the eligibility requirements for recognition of civil unions from other jurisdictions are met, there does not seem to be a need to require this extra step for those couples who are in reciprocal beneficiary relationships. Requiring the couple to manually terminate rather than have an automatic termination by operation of law could create confusion and perhaps lead to the existence of conflicting statuses. We recommend against the proposed amendment to section 572B-10.

Section 572B-10, HRS, could benefit from clarification to make it clearer which unions from other jurisdictions would be recognized as civil unions, as has been done in other states (see Wash. Rev. Code Ann. § 26.60.090 (West 2012)). We suggest amending this section as follows:

"§572B-10 [~~Civil unions~~] Unions performed in other jurisdictions. [~~All unions entered into in other jurisdictional between two individuals not recognized under section 572-3 shall be recognized as civil unions;~~] A legal union of two persons that is not a marriage under chapter 572, which was validly formed in another jurisdiction, and

which is substantially equivalent to a civil union under this chapter, shall be recognized as a valid civil union in this State and shall be treated the same as a civil union entered into in this State regardless of whether it bears the name civil union; provided that the relationship meets the eligibility requirements of this chapter, has been entered into in accordance with the laws of that jurisdiction, and can be documented."

Concerns relating to statutory interpretation:

In addition to the above specific comments about the bill's wording, we are concerned that any amendments to clarify the civil union law, if made in some sections of the Hawaii Revised Statutes but not in others, might be construed as the Legislature's intending to exclude the application of the civil union law to unreferenced sections. To avoid that erroneous construction, **we strongly urge inclusion of the following in a purpose section and in the committee report:**

Act 1, Session Laws of Hawaii 2011, specifically the new section codified as section 572B-9, Hawaii Revised Statutes, gave civil union partners all the same rights, benefits, protections, and responsibilities under law as given to those who contract, obtain a license, and are solemnized pursuant to chapter 572, Hawaii Revised Statutes. During the months of preparation to implement Act 1 and in the time since Act 1 became effective on January 1, 2012, however, it has come to the legislature's attention that certain provisions of Hawaii's statutes would benefit from additional clarification to aid in the proper implementation of Act 1 and minimize confusion as we move forward. Therefore, in making these amendments with this measure, it is the intent of the legislature to reconfirm and clarify the provisions of chapter 572B, Hawaii Revised Statutes, as enacted by Act 1, Session Laws of Hawaii 2011. Nothing in this measure shall be interpreted to weaken or lessen any of the protections, obligations, rights, and responsibilities governed by any provision of Act 1.

We respectfully request that if the committee passes this bill, it includes these suggested changes.