



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### SB2777

Introduced 1/17/2024, by Sen. Natalie Toro

#### SYNOPSIS AS INTRODUCED:

|                  |                        |
|------------------|------------------------|
| 750 ILCS 65/1    | from Ch. 40, par. 1001 |
| 750 ILCS 65/2    | from Ch. 40, par. 1002 |
| 750 ILCS 65/5    | from Ch. 40, par. 1005 |
| 750 ILCS 65/9    | from Ch. 40, par. 1009 |
| 750 ILCS 65/10   | from Ch. 40, par. 1010 |
| 750 ILCS 65/11   | from Ch. 40, par. 1011 |
| 750 ILCS 65/12   | from Ch. 40, par. 1012 |
| 750 ILCS 65/13   | from Ch. 40, par. 1013 |
| 750 ILCS 65/14   | from Ch. 40, par. 1014 |
| 750 ILCS 65/15   | from Ch. 40, par. 1015 |
| 750 ILCS 65/16   | from Ch. 40, par. 1016 |
| 750 ILCS 65/17   | from Ch. 40, par. 1017 |
| 750 ILCS 65/22   | from Ch. 40, par. 1022 |
| 750 ILCS 75/10   |                        |
| 765 ILCS 5/19    | from Ch. 30, par. 18   |
| 765 ILCS 5/27    | from Ch. 30, par. 26   |
| 765 ILCS 1005/1  | from Ch. 76, par. 1    |
| 765 ILCS 1005/1c | from Ch. 76, par. 1c   |

Amends the Illinois Religious Freedom Protection and Civil Unions Act, the Conveyances Act, the Joint Tenancy Act, and the Rights of Married Persons Act. Inserts gender neutral descriptions showing marital status.

LRB103 36549 JRC 66656 b

1 AN ACT concerning property.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Rights of Married Persons Act is amended by  
5 changing Sections 1, 2, 5, 9, 10, 11, 12, 13, 14, 15, 16, 17,  
6 and 22 as follows:

7 (750 ILCS 65/1) (from Ch. 40, par. 1001)

8 Sec. 1. Rights to sue and be sued. A married person may, in  
9 all cases, sue and be sued without joining his or her spouse as  
10 if unmarried. Either spouse ~~A husband or wife~~ may sue the other  
11 for a tort committed during the marriage. No finding by any  
12 court under Section 401 of the Illinois Marriage and  
13 Dissolution of Marriage Act shall be admissible or be used as  
14 prima facie evidence of a tort in any civil action brought  
15 under this Act. An attachment or judgment in an action may be  
16 enforced by or against a married person as if unmarried.

17 (Source: P.A. 87-286.)

18 (750 ILCS 65/2) (from Ch. 40, par. 1002)

19 Sec. 2. Defending in own right or for other. If a married  
20 couple ~~husband and wife~~ are sued together, either may defend  
21 for his or her own right and, if either neglects to defend, the  
22 other may defend for both.

1 (Source: P.A. 87-286.)

2 (750 ILCS 65/5) (from Ch. 40, par. 1005)

3 Sec. 5. Neither spouse in a marriage ~~husband or wife~~ shall  
4 be liable for the debts or liabilities of the other incurred  
5 before marriage, and (except as herein otherwise provided)  
6 they shall not be liable for the separate debts of each other,  
7 nor shall the wages, earnings or property of either, nor the  
8 rent or income of such property, be liable for the separate  
9 debts of the other.

10 (Source: R.S. 1874, p. 576.)

11 (750 ILCS 65/9) (from Ch. 40, par. 1009)

12 Sec. 9. Property. A married person may own in his or her  
13 own right real and personal property obtained by descent,  
14 gift, or purchase and may manage, sell, and convey that  
15 property to the same extent and in the same manner as an  
16 unmarried person. When the spouses ~~husband and wife~~ live  
17 together, however, no transfer or conveyance of goods and  
18 chattels between the spouses ~~husband and wife~~ shall be valid  
19 as against the rights and interests of any third person unless  
20 the transfer or conveyance is in writing and filed in the same  
21 manner as security interests are required to be filed by the  
22 laws of this State in cases where the possession of the  
23 property is to remain with the person giving the security.

24 (Source: P.A. 87-286.)

1 (750 ILCS 65/10) (from Ch. 40, par. 1010)

2 Sec. 10. Should either spouse ~~the husband or wife~~  
3 unlawfully obtain or retain possession or control of property  
4 belonging to the other, either before or after marriage, the  
5 owner of the property may maintain an action therefor, or for  
6 any right growing out of the same, in the same manner and to  
7 the same extent as if they were unmarried.

8 (Source: R.S. 1874, p. 576.)

9 (750 ILCS 65/11) (from Ch. 40, par. 1011)

10 Sec. 11. In case one spouse ~~the husband or wife~~ abandons  
11 the other and leaves the state, and is absent therefrom for one  
12 year, without providing for the maintenance and support of his  
13 or her family, or is imprisoned in the penitentiary, the  
14 circuit court in the county where the abandoned spouse or the  
15 spouse who is ~~the husband or wife so abandoned or,~~ not  
16 confined, resides, may, on application by petition, setting  
17 forth fully the facts, if the court is satisfied of the  
18 necessity by the evidence, authorize him or her to manage,  
19 control, sell or incumber the property of the other, as shall  
20 be necessary, in the judgment of the court, for the support and  
21 maintenance of the family, and for the purpose of paying debts  
22 of the other, or debts contracted for the support of the  
23 family. Notice of such proceedings shall be given as in other  
24 civil actions, and anything done under or by virtue of the

1 order or judgment of the court, shall be valid to the same  
2 extent as if the same were done by the party owning the  
3 property.

4 (Source: P.A. 84-1308.)

5 (750 ILCS 65/12) (from Ch. 40, par. 1012)

6 Sec. 12. All contracts, sales or incumbrances made by one  
7 spouse to a marriage ~~either the husband or wife~~, by virtue of  
8 the power contemplated in the preceding section, shall be  
9 binding on both, and during such absence or confinement, the  
10 person acting under such power may sue and be sued thereon; and  
11 for all acts done the property of both shall be liable, and  
12 execution may be levied or attachment issued accordingly. No  
13 suit or proceeding shall abate, or be in anywise affected, by  
14 the return or release of the person absent or confined, but he  
15 or she shall be permitted to prosecute or defend jointly with  
16 the other.

17 (Source: R.S. 1874, p. 576.)

18 (750 ILCS 65/13) (from Ch. 40, par. 1013)

19 Sec. 13. The spouse ~~husband or wife~~ affected by the  
20 proceedings contemplated in the 2 preceding sections may have  
21 the order or judgment of the court set aside or annulled, by  
22 filing a petition therefor and serving a notice on the person  
23 in whose favor the same was granted, as in other civil actions.  
24 But the setting aside of such judgment or order shall in nowise

1 affect any act done thereunder.

2 (Source: P.A. 84-1308.)

3 (750 ILCS 65/14) (from Ch. 40, par. 1014)

4 Sec. 14. Either spouse ~~A husband or wife~~ may constitute  
5 the other as his or her attorney in fact, to control and  
6 dispose of ~~his or her~~ property for their mutual benefit or  
7 otherwise, and may revoke the same to the same extent and in  
8 the same manner as other persons.

9 (Source: R.S. 1874, p. 576.)

10 (750 ILCS 65/15) (from Ch. 40, par. 1015)

11 Sec. 15. (a)(1) The expenses of the family and of the  
12 education of the children shall be chargeable upon the  
13 property of both spouses ~~husband and wife~~, or of either of  
14 them, in favor of creditors therefor, and in relation thereto  
15 they may be sued jointly or separately.

16 (2) No creditor, who has a claim against a spouse or former  
17 spouse for an expense incurred by that spouse or former spouse  
18 which is not a family expense, shall maintain an action  
19 against the other spouse or former spouse for that expense  
20 except:

21 (A) an expense for which the other spouse or former  
22 spouse agreed, in writing, to be liable; or

23 (B) an expense for goods or merchandise purchased by  
24 or in the possession of the other spouse or former spouse,

1 or for services ordered by the other spouse or former  
2 spouse.

3 (3) Any creditor who maintains an action in violation of  
4 this subsection (a) for an expense other than a family expense  
5 against a spouse or former spouse other than the spouse or  
6 former spouse who incurred the expense, shall be liable to the  
7 other spouse or former spouse for his or her costs, expenses  
8 and attorney's fees incurred in defending the action.

9 (4) No creditor shall, with respect to any claim against a  
10 spouse or former spouse for which the creditor is prohibited  
11 under this subsection (a) from maintaining an action against  
12 the other spouse or former spouse, engage in any collection  
13 efforts against the other spouse or former spouse, including,  
14 but not limited to, informal or formal collection attempts,  
15 referral of the claim to a collector or collection agency for  
16 collection from the other spouse or former spouse, or making  
17 any representation to a credit reporting agency that the other  
18 spouse or former spouse is any way liable for payment of the  
19 claim.

20 (b) (Blank).

21 (c) (Blank).

22 (Source: P.A. 101-13, eff. 6-12-19.)

23 (750 ILCS 65/16) (from Ch. 40, par. 1016)

24 Sec. 16. Neither spouse ~~the husband nor wife~~ can remove  
25 the other or their children from their homestead without the

1 consent of the other, unless the owner of the property shall,  
2 in good faith, provide another homestead suitable to the  
3 condition in life of the family; and if one spouse abandons the  
4 other, the abandoned spouse ~~he abandons her, she~~ is entitled  
5 to the custody of their minor children, unless a court of  
6 competent jurisdiction, upon application for that purpose,  
7 shall otherwise direct.

8 (Source: R.S. 1874, p. 576.)

9 (750 ILCS 65/17) (from Ch. 40, par. 1017)

10 Sec. 17. When one spouse ~~the husband or wife~~ is under legal  
11 disability and therefore incapable of executing a deed or  
12 mortgage, and relinquishing or conveying his or her right to  
13 homestead in the real property of the other, such other person  
14 may present his or her petition to the circuit court in the  
15 county where the petitioner resides, or where the real estate  
16 to be affected is situated, setting forth the facts, and  
17 particularly describing the real estate sought to be conveyed  
18 or mortgaged, and asking for an order authorizing the  
19 petitioner, or some other person, to execute a deed or  
20 mortgage for the person who is under legal disability, and  
21 thereby relinquish his or her right of homestead in the real  
22 estate.

23 (Source: P.A. 83-706.)

24 (750 ILCS 65/22) (from Ch. 40, par. 1022)



1           Sec. 22. Nothing in this Act abolishes or prevents the  
2 creation and enjoyment of the estate of tenancy by the  
3 entirety with respect to any devise, conveyance, assignment,  
4 or other transfer of property, including a beneficial interest  
5 in a land trust, maintained or intended for maintenance as a  
6 homestead by ~~both spouses married to each other together~~  
7 during marriage ~~husband and wife during coverture~~ made or  
8 executed on or after October 1, 1990.

9           This amendatory Act of 1995 is declarative of existing  
10 law.

11 (Source: P.A. 89-88, eff. 6-30-95; 89-438, eff. 12-15-95.)

12           Section 10. The Illinois Religious Freedom Protection and  
13 Civil Union Act is amended by changing Section 10 as follows:

14           (750 ILCS 75/10)

15           Sec. 10. Definitions. As used in this Act:

16           "Certificate" means a document that certifies that the  
17 persons named on the certificate have established a civil  
18 union in this State in compliance with this Act.

19           "Civil union" means a legal relationship between 2  
20 persons, of either the same or opposite sex, established  
21 pursuant to this Act.

22           "Department" means the Department of Public Health.

23           "Officiant" means the person authorized to certify a civil  
24 union in accordance with Section 40.

1 "Party to a civil union" means a person who has  
2 established a civil union pursuant to this Act. "Party to a  
3 civil union" means, and shall be included in, any definition  
4 or use of the terms "spouse", "family", "immediate family",  
5 "dependent", "next of kin", "marriage", "married", "married to  
6 each other", "husband", "wife", "bride", "groom", "wedlock",  
7 and other terms that refer to or denote the spousal  
8 relationship, as those terms are used throughout the law,  
9 regardless of whether the parties to a civil union are of the  
10 same sex or different sexes.

11 (Source: P.A. 96-1513, eff. 6-1-11.)

12 Section 15. The Conveyances Act is amended by changing  
13 Sections 19 and 27 as follows:

14 (765 ILCS 5/19) (from Ch. 30, par. 18)

15 Sec. 19. The acknowledgment or proof of any deed,  
16 mortgage, conveyance, power of attorney, or other writing of  
17 or relating to the sale, conveyance, or other disposition of  
18 lands or real estate, or any interest therein, by a married  
19 person ~~woman~~, may be made and certified the same as if that  
20 person was unmarried ~~she were a feme sole~~, and shall have the  
21 same effect.

22 (Source: P.A. 77-435.)

23 (765 ILCS 5/27) (from Ch. 30, par. 26)

1           Sec. 27. No deed or other instrument shall be construed as  
2 releasing or waiving the right of homestead, unless the same  
3 shall contain a clause expressly releasing or waiving such  
4 right. And no release or waiver of the right of homestead by  
5 one spouse ~~the husband or wife~~ shall bind the other spouse  
6 unless such other spouse joins in such release or waiver.  
7 (Source: P.A. 80-346.)

8           Section 20. The Joint Tenancy Act is amended by changing  
9 Sections 1 and 1c as follows:

10           (765 ILCS 1005/1) (from Ch. 76, par. 1)

11           Sec. 1. No estate in joint tenancy in any lands, tenements  
12 or hereditaments, or in any parts thereof or interest therein,  
13 shall be held or claimed under any grant, legacy or conveyance  
14 whatsoever heretofore or hereafter made, other than to  
15 executors and trustees, unless the premises therein mentioned  
16 shall expressly be thereby declared to pass not in tenancy in  
17 common but in joint tenancy; and every such estate other than  
18 to executors and trustees (unless otherwise expressly declared  
19 as aforesaid, or unless, as to a devise or conveyance of  
20 homestead property, expressly declared to pass to individuals  
21 married to each other ~~a husband and wife~~ as tenants by the  
22 entirety in the manner provided by Section 1c), shall be  
23 deemed to be in tenancy in common and all conveyances  
24 heretofore made, or which hereafter may be made, wherein the

1 premises therein mentioned were or shall be expressly declared  
2 to pass not in tenancy in common but in joint tenancy, are  
3 hereby declared to have created an estate in joint tenancy  
4 with the accompanying right of survivorship the same as it  
5 existed prior to the passage of "An Act to amend Section 1 of  
6 an Act entitled: 'An Act to revise the law in relation to joint  
7 rights and obligations,' approved February 25, 1874, in force  
8 July 1, 1874," approved June 26, 1917.

9 (Source: P.A. 86-966.)

10 (765 ILCS 1005/1c) (from Ch. 76, par. 1c)

11 Sec. 1c. Whenever a devise, conveyance, assignment, or  
12 other transfer of property, including a beneficial interest in  
13 a land trust, maintained or intended for maintenance as a  
14 homestead shall be made by both spouses during marriage or a  
15 civil union ~~husband and wife together during coverture shall~~  
16 ~~be made~~ and the instrument of devise, conveyance, assignment,  
17 or transfer expressly declares that the devise or conveyance  
18 is made to tenants by the entirety, or if the beneficial  
19 interest in a land trust is to be held as tenants by the  
20 entirety, the estate created shall be deemed to be in tenancy  
21 by the entirety. Where the homestead is held in the name or  
22 names of a trustee or trustees of a revocable inter vivos trust  
23 or of revocable inter vivos trusts made by the settlors of such  
24 trust or trusts who are married to each other or in a civil  
25 union ~~husband and wife~~, and the spouses ~~husband and wife~~ are

1 the primary beneficiaries of one or both of the trusts so  
2 created, and the deed or deeds conveying title to the  
3 homestead to the trustee or trustees of the trust or trusts  
4 specifically state that the interests of both spouses ~~the~~  
5 ~~husband and wife~~ to the homestead property are to be held as  
6 tenants by the entirety, the estate created shall be deemed to  
7 be a tenancy by the entirety. Subject to the provisions of  
8 paragraph (d) of Section 2 and unless otherwise assented to in  
9 writing by both tenants by the entirety, the estate in tenancy  
10 by the entirety so created shall exist only if, and as long as,  
11 the tenants are and remain married to each other, and upon the  
12 death of either such tenant the survivor shall retain the  
13 entire estate; provided that, upon a judgment of dissolution  
14 of marriage or of declaration of invalidity of marriage, the  
15 estate shall, by operation of law, become a tenancy in common  
16 until and unless the court directs otherwise; provided further  
17 that the estate shall, by operation of law, become a joint  
18 tenancy upon the creation and maintenance by both spouses  
19 together of other property as a homestead. A devise,  
20 conveyance, assignment, or other transfer to 2 grantees who  
21 are not in fact married to each other or in a civil union  
22 ~~husband and wife~~ that purports to create an estate by the  
23 entirety shall be construed as having created an estate in  
24 joint tenancy. An estate in tenancy by the entirety may be  
25 created notwithstanding the fact that a grantor is or the  
26 grantors are also named as a grantee or the grantees in a deed.

1 No deed, contract for deed, mortgage, or lease of homestead  
2 property held in tenancy by the entirety shall be effective  
3 unless signed by both tenants. This Section shall not apply to  
4 nor operate to change the effect of any devise or conveyance.

5 This amendatory Act of the 103rd General Assembly and the  
6 ~~This~~ amendatory Act of 1995 are ~~is~~ declarative of existing  
7 law.

8 (Source: P.A. 96-1145, eff. 1-1-11.)