



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2234

Introduced 2/18/2009, by Rep. Greg Harris

SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Religious Freedom Protection and Civil Union Act. Defines "civil union" as a legal relationship between 2 persons, of either the same or opposite sex, established in accordance with the Act. Provides that a party to a civil union shall be entitled to the same legal obligations, responsibilities, protections, and benefits afforded or recognized by the law of Illinois to spouses. Prohibits certain civil unions. Provides that the Director of Public Health shall prescribe forms for an application, license, and certificate for a civil union. Contains provisions regarding: application for a civil union license; certification of a civil union; and duties of the county clerk and Department of Public Health. Provides for dissolution and declaration of invalidity of a civil union. Provides that a marriage between persons of the same sex, a civil union, or a substantially similar legal relationship other than common law marriage, legally entered into in another jurisdiction, shall be recognized in Illinois as a civil union. Contains provisions regarding construction, application, religious freedom, severability, and other matters.

LRB096 04779 AJO 14843 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 1. Short title. This Act may be cited as the
5 Illinois Religious Freedom Protection and Civil Union Act.

6 Section 5. Purposes; rules of construction. This Act shall
7 be liberally construed and applied to promote its underlying
8 purposes, which are to provide adequate procedures for the
9 certification and registration of a civil union and provide
10 persons entering into a civil union with the obligations,
11 responsibilities, protections, and benefits afforded or
12 recognized by the law of Illinois to spouses.

13 Section 10. Definitions. As used in this Act:

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

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

20 "Department" means the Department of Public Health.

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

1 "Party to a civil union" means a person who has established
2 a civil union pursuant to this Act. "Party to a civil union"
3 means, and shall be included in, any definition or use of the
4 terms "spouse", "family", "immediate family", "dependent",
5 "next of kin", and other terms that denote the spousal
6 relationship, as those terms are used throughout the law.

7 Section 15. Religious freedom. Nothing in this Act shall
8 interfere with or regulate the religious practice of any
9 religious body. Any religious body, Indian Nation or Tribe or
10 Native Group is free to choose whether or not to solemnize or
11 officiate a civil union.

12 Section 20. Protections, obligations, and
13 responsibilities. A party to a civil union is entitled to the
14 same legal obligations, responsibilities, protections, and
15 benefits as are afforded or recognized by the law of Illinois
16 to spouses, whether they derive from statute, administrative
17 rule, policy, common law, or any other source of civil or
18 criminal law.

19 Section 25. Prohibited civil unions. The following civil
20 unions are prohibited:

21 (1) a civil union entered into prior to both parties
22 attaining 18 years of age;

23 (2) a civil union entered into prior to the dissolution

1 of a marriage or civil union or substantially similar legal
2 relationship of one of the parties;

3 (3) a civil union between an ancestor and a descendent
4 or between siblings whether the relationship is by the half
5 or the whole blood or by adoption;

6 (4) a civil union between an aunt or uncle and a niece
7 or nephew, whether the relationship is by the half or the
8 whole blood or by adoption; and

9 (5) a civil union between first cousins.

10 Section 30. Application, license, and certification.

11 (a) The Director of Public Health shall prescribe the form
12 for an application, license, and certificate for a civil union.

13 (b) An application for a civil union shall include the
14 following information:

15 (1) name, sex, occupation, address, social security
16 number, date and place of birth of each party to the civil
17 union;

18 (2) name and address of the parents or guardian of each
19 party;

20 (3) whether the parties are related to each other and,
21 if so, their relationship; and

22 (4) in the event either party was previously married or
23 entered into a civil union or a substantially similar legal
24 relationship, provide the name, date, place and the court
25 in which the marriage or civil union or substantially

1 similar legal relationship was dissolved or declared
2 invalid or the date and place of death of the former spouse
3 or of the party to the civil union or substantially similar
4 legal relationship.

5 (c) When an application has been completed and signed by
6 both parties, applicable fees have been paid, and both parties
7 have appeared before the county clerk, the county clerk shall
8 issue a license and a certificate of civil union upon being
9 furnished satisfactory proof that the civil union is not
10 prohibited.

11 (d) A license becomes effective in the county where it was
12 issued one day after the date of issuance, and expires 60 days
13 after it becomes effective.

14 (e) The certificate must be completed and returned to the
15 county clerk that issued the license within 10 days of the
16 civil union.

17 (f) A copy of the completed certificate from the county
18 clerk or the return provided to the Department of Public Health
19 by a county clerk shall be presumptive evidence of the civil
20 union in all courts.

21 Section 35. Duties of the county clerk.

22 (a) Before issuing a civil union license to a person who
23 resides and intends to continue to reside in another state, the
24 county clerk shall satisfy himself or herself by requiring
25 affidavits or otherwise that the person is not prohibited from

1 entering into a civil union or substantially similar legal
2 relationship by the laws of the jurisdiction where he or she
3 resides.

4 (b) Upon receipt of the certificate, the county clerk shall
5 notify the Department of Public Health within 45 days. The
6 county clerk shall provide the Department of Public Health with
7 a return on a form furnished by the Department of Public Health
8 and shall substantially consist of the following items:

9 (1) a copy of the application signed and attested to by
10 the applicants, except that in any county in which the
11 information provided in a civil union application is
12 entered into a computer, the county clerk may submit a
13 computer copy of the information without the signatures and
14 attestations of the applicants;

15 (2) the license number;

16 (3) a copy of the certificate; and

17 (4) the date and location of the civil union.

18 (c) Each month, the county clerk shall report to the
19 Department of Public Health the total number of civil union
20 applications, licenses, and certificates filed during the
21 month.

22 (d) Any official issuing a license with knowledge that the
23 parties are thus prohibited from entering into a civil union
24 shall be guilty of a petty offense.

25 Section 40. Certification. A civil union may be certified:

1 by a judge of a court of record; by a retired judge of a court
2 of record, unless the retired judge was removed from office by
3 the Judicial Inquiry Board, except that a retired judge shall
4 not receive any compensation from the State, a county, or any
5 unit of local government in return for the solemnization of a
6 civil union and there shall be no effect upon any pension
7 benefits conferred by the Judges Retirement System of Illinois;
8 by a judge of the Court of Claims; by a county clerk in
9 counties having 2,000,000 or more inhabitants; by a public
10 official whose powers include solemnization of marriages; or in
11 accordance with the prescriptions of any religious
12 denomination, Indian Nation or Tribe or Native Group, provided
13 that when such prescriptions require an officiant, the
14 officiant be in good standing with his or her religious
15 denomination, Indian Nation or Tribe or Native Group. The
16 person performing a civil union shall complete the certificate
17 and forward it to the county clerk within 10 days after a civil
18 union.

19 Section 45. Dissolution; declaration of invalidity. Any
20 person who enters into a civil union in Illinois consents to
21 the jurisdiction of the courts of Illinois for the purpose of
22 any action relating to a civil union even if one or both
23 parties cease to reside in this State. A court shall enter a
24 judgment of dissolution of a civil union if at the time the
25 action is commenced it meets the grounds for dissolution set

1 forth in Section 401 of the Illinois Marriage and Dissolution
2 of Marriage Act. The provisions of Sections 401 through 413 of
3 the Illinois Marriage and Dissolution of Marriage Act shall
4 apply to a dissolution of a civil union. The provisions of
5 Sections 301 through 306 of the Illinois Marriage and
6 Dissolution of Marriage Act shall apply to the declaration of
7 invalidity of a civil union.

8 Section 50. Application of the Civil Practice Law. The
9 provisions of the Civil Practice Law shall apply to all
10 proceedings under this Act, except as otherwise provided in
11 this Act. A proceeding for dissolution of a civil union or
12 declaration of invalidity of a civil union shall be entitled
13 "In re the Civil Union of ... and ...". The initial pleading in
14 all proceedings under this Act shall be denominated a petition.
15 A responsive pleading shall be denominated a response. All
16 other pleadings under this Act shall be denominated as provided
17 in the Civil Practice Law.

18 Section 55. Venue. The proceedings shall be had in the
19 county where the petitioner or respondent resides or where the
20 parties' certificate of civil union was issued, except as
21 otherwise provided herein, but process may be directed to any
22 county in the State. Objection to venue is barred if not made
23 within such time as the respondent's response is due. In no
24 event shall venue be deemed jurisdictional.

1 Section 60. Reciprocity. A marriage between persons of the
2 same sex, a civil union, or a substantially similar legal
3 relationship other than common law marriage, legally entered
4 into in another jurisdiction, shall be recognized in Illinois
5 as a civil union.

6 Section 90. Severability. If any part of this Act or its
7 application to any person or circumstance is adjudged invalid,
8 the adjudication or application shall not affect the validity
9 of this Act as a whole or of any other part.