2011 -- H 6103

=======
LC02541
=======

S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO DOMESTIC RELATIONS - CIVIL UNIONS

Introduced By: Representatives Petrarca, Fox, JP O`Neill, E Coderre, and Watson

Date Introduced: May 03, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Title 15 of the General Laws entitled "DOMESTIC RELATIONS" is hereby amended by adding thereto the following chapter:

CHAPTER 3.1

CIVIL UNIONS

15-3.1-1. Definitions. – (1) "Certificate of civil union" means a document that certifies that the persons named on the certificate have established a civil union in compliance with this chapter.

(2) "Civil union" means a legal union between two individuals of the same sex established pursuant to this chapter.

(3) "Party to a civil union" means a person who has established a civil union pursuant to this chapter.

15-3.1-2. Eligibility. -- Persons shall be eligible to enter into a civil union only if both such persons are:

(1) At least eighteen (18) years of age;

(2) Of the same sex;

(3) Not a party to another civil union or a spouse in a marriage with any other person;

(4) Not in a family relationship within the degrees stated in Rhode Island general laws section 15-1-1 or section 15-1-2; and

(5) Neither person is mentally incompetent at the time of the civil union.

15-3.1-3. License requirements. -- (a) Persons intending to form a civil union in this state must first obtain a license from the town or city in which:

(1) One of the proposed parties to the civil union resides; or

(2) In the case of both parties being nonresidents of this state the city or town in which the proposed civil union is to be performed.

(b) Before any license shall be issued to any person who, having previously been married or been a partner in a civil union to someone other than their intended civil union partner, the person shall present to the town or city clerk an authenticated copy of the decree granting the divorce or dissolving the civil union.

(c) The license required in: (a) shall be valid for three (3) months after the date of issue, and if unused at the expiration of the three (3) months, the party or parties having the possession of the license shall immediately return it to the town or city clerk from whom it was obtained.

(d) License fee. For issuing the civil union license the town or city clerk shall collect a fee of twenty-four dollars ($24.00). The city or town shall retain eight dollars ($8.00), and transmit sixteen dollars ($16.00) to the general treasurer of the State of Rhode Island who shall be responsible for depositing eight dollars ($8.00) of the sixteen dollars ($16.00) received into the family and children trust fund created by Rhode Island general laws section 42-72-30. Each clerk shall keep an accurate account of all fees charged and received under this section and shall transmit all sums due to the general treasurer at least monthly in the manner and with the forms which the general treasurer shall prescribe.

(e) The several town and city clerks shall record, in separate books to be kept by them for that purpose, the information furnished to them and subscribed to as provided in this section.

15-3.1-4. Certification of civil unions. -- Officials empowered to certify persons in civil unions:

(1) Every ordained clergy or elder in good standing, every justice of the supreme court, superior court, family court, workers' compensation court, district court or traffic tribunal, the clerk of the supreme court, every clerk or general chief clerk of a superior court, family court, district court, or traffic tribunal, magistrates, special or general magistrates of the superior court, family court, traffic tribunal or district court, administrative clerks of the district court, administrators of the workers' compensation court, every former justice or judge and former administrator of these courts and every former chief clerk of the district court, and every former clerk or general chief clerk of a superior court, the secretary of the senate, elected clerks of the general assembly, any former secretary of the senate or any former elected clerk of the general assembly who retires after July 1, 2007, judges of the United States appointed pursuant to Article

III of the United States Constitution, bankruptcy judges appointed pursuant to Article I of the United States Constitution, and United States magistrate judges appointed pursuant to federal law, may certify a civil union in any city or town in this state; and every justice and every former justice of the municipal courts of the cities and towns in this state and of the police court of the town of Johnston and every probate judge and every former probate judge may certify a civil union in any city or town in this state, and wardens of the town of New Shoreham may certify persons in civil unions in New Shoreham.

(2) Every certification of a civil union shall be held in the presence of at least two (2) witnesses besides the person officiating the certification and no minister, justice or other authorized person shall perform the civil union certification until the persons to be certified in a civil union have presented him or her the license named in this section.

(3) Every minister, justice, or other authorized person who certifies any persons in a civil union shall endorse the "License and Certificate of Civil Union" presented to him or her by the persons and certify that the persons were certified in a civil union in accordance with the laws of the State of Rhode Island and the person who certifies the parties in the civil union shall complete all the information on the "License and Certificate of Civil Union" and file the form within seventy-two (72) hours following the date of the civil union certification with the clerk in the town or city from which the license was issued.

(4) The town or city clerk to whom the civil union certificate is returned shall carefully file and preserve the return.

(5) If any person has any lawful objection to the civil union of any two (2) persons, he or she may state the objection in writing, under his or her hand, to the minister, justice or other authorized person about to certify the civil union, at which time the minister, justice or other authorized person shall proceed no further in the civil union until the lawful objection has been removed.

(6) Every minister, justice, or other authorized person who certifies persons in a civil union without first receiving the license required by this chapter containing the required information, or whenever the certification of the civil union has been lawfully objected to and the impediment is not removed, or when the person certifies parties in a civil union that he or she knows to have a husband, wife, or other civil union partner shall be imprisoned not exceeding six (6) months or fined not exceeding one thousand dollars ($1,000).

(7) No civil union certified before a person professing to have a license or professing to be qualified to certify the civil union shall be deemed or adjudged to be void, nor shall the validity of the civil union be in any way affected by want of jurisdiction or authority in the person

by noncompliance with any of the requirements of this chapter, if the civil union is in other respects lawful and has been certified with a full belief on the part of the parties to the civil union, or either of them, that they have lawfully certified in a civil union.

(8) Every person who certifies a civil union without being legally authorized to do so shall be fined five hundred dollars ($500).

(9) If, as the result of a court decision, any civil union which has occurred in Rhode Island is declared invalid, the court shall order the state registrar of vital records to mark "invalid" the original civil union record on file at the division of vital records and to note the invalidity of the civil union on all other files or references to the civil union.

(10) Whoever gives, or procures to be given, any false information as to the requirements under this chapter, or whoever enters into a civil union without duly proceeding as is required by this chapter, shall be fined not exceeding fifty dollars ($50.00).

15-3.1-5. Civil union certification. -- Nothing in this chapter shall be construed to require any ordained clergy or elder in good standing authorized under this chapter to certify a civil union and no such authorized person who fails or refuses to certify persons in a civil union shall be subject to fine, penalty, or other cause of action for failure or refusal to certify the civil union.

15-3.1-6. Benefits, protections, and responsibilities. -- A party to a civil union lawfully entered into pursuant to this chapter shall have all the rights, benefits, protections, and responsibilities under law, whether derived from statutes, administrative rules, court decisions, the common law, or any other source of civil or criminal law as people joined together pursuant to chapter 15-3.

15-3.1-7. References and inclusions. -- A party to a civil union shall be included in any definition or use of any term that denotes the spousal relationship, whether or not gender specific, as those or related terms designating that relationship are used throughout the laws of the State of Rhode Island.

15-3.1-8. Reciprocity. -- A civil union, or a substantially similar legal relationship, legally entered into a another jurisdiction, shall be recognized in Rhode Island as a civil union.

15-3.1-9. Dissolution of civil unions. -- The family court shall have jurisdiction over all proceedings regarding dissolution of civil unions. No complaint for dissolution of a civil union shall be granted unless the plaintiff has been a domiciled inhabitant of this state and has resided in this state for a period of one year next before the filing of the complaint; provided, that if the defendant has been a domiciled inhabitant of this state and has resided in this state for the period of one year next before the filing of the complaint, and is actually served with process, the

requirement of this section as to domicile and residence on the part of the plaintiff is deemed satisfied and fulfilled. All complaints for dissolution of a civil union shall be filed in the county in which the plaintiff is residing, unless the complaint is based upon the residence of the defendant, in which case the complaint shall be filed in Providence County or in the county in which the defendant resides. In all other respects, the dissolution of civil unions shall follow the same procedures and be subject to the substantive rights and obligations that are outlined in chapter 15-5.

15-3.1-10. Requirement of department of health - Civil unions. -- (a) The department of health, division of vital statistics shall draft and distribute applications for civil unions to every town and city within the state.

15-3.1-11. Severability. -- If any part of this chapter or its application to any person or circumstance is adjudged invalid, the adjudication or application shall not affect the validity of this act as a whole or any other part.

SECTION 2. This act shall take effect upon passage.

=======
LC02541
=======

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO DOMESTIC RELATIONS - CIVIL UNIONS

***

This act would provide a legal proceeding whereby two individuals of the same sex may enter into a civil union.

This act would take effect upon passage.

=======
LC02541
=======