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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 -- DOMESTIC UNIONS

Introduced By: Senator Dawson T. Hodgson

Date Introduced: February 16, 2011

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Chapter 15-1 of the General Laws entitled "PERSONS ELIGIBLE TO MARRY" is hereby repealed in its entirety.

~~CHAPTER 15-1~~

~~PERSONS ELIGIBLE TO MARRY~~

~~**15-1-1. Men forbidden to marry kindred.** -- No man shall marry his mother, grandmother, daughter, son's daughter, daughter's daughter, stepmother, grandfather's wife, son's wife, son's son's wife, daughter's son's wife, wife's mother, wife's grandmother, wife's daughter, wife's son's daughter, wife's daughter's daughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister.~~

~~**15-1-2. Women forbidden to marry kindred.** -- No woman shall marry her father, grandfather, son, son's son, daughter's son, stepfather, grandmother's husband, daughter's husband, son's daughter's husband, daughter's daughter's husband, husband's father, husband's grandfather, husband's son, husband's son's son, husband's daughter's son, brother, brother's son, sister's son, father's brother, or mother's brother.~~

~~**15-1-3. Incestuous marriages void.** -- If any man or woman intermarries within the degrees stated in section 15-1-1 or section 15-1-2, the marriage shall be null and void.~~

~~**15-1-4. Marriages of kindred allowed by Jewish religion.** -- The provisions of sections 15-1-1 -- 15-1-3 shall not extend to, or in any way affect, any marriage which shall be solemnized among the Jewish people, within the degrees of affinity or consanguinity allowed by their~~

~~religion.~~

~~**15-1-5. Bigamous marriages void -- Marriage of persons who are mentally incompetent.** -- Any marriage, when either of the parties at the time of the marriage has a former wife or husband living who has not been, by final decree, divorced from that party, and any marriage where either of the parties is mentally incompetent at the time of the marriage, shall be absolutely void, and no life estate created by chapter 25 of title 33 shall be assigned to any widow in consequence of the marriage.~~

~~**15-1-6. Declaration of validity of marriage by divorced person.** -- Any marriage, which may have been deemed and held void because a former wife or husband of either of the parties to the marriage, divorced from the party by final decree, was living at the time of the marriage, may be declared valid and binding upon the parties by decree of the family court, if the marriage was in all other respects lawful. The decree may be entered at the discretion of the court upon the petition of either party to the marriage, or of any of the issue of the marriage, and after a hearing and notice to all persons known to have an interest in the marriage as the court may deem necessary, and the decree may declare that the issue of the marriage shall be deemed legitimate and that the widow of any party to the marriage shall be entitled to her life estate created by chapter 25 of title 33.~~

SECTION 2. Title 15 of the General Laws entitled "DOMESTIC RELATIONS" is hereby amended by adding thereto the following chapter:

CHAPTER 1.1

DOMESTIC UNIONS

15-1.1-1. Equal access to domestic union. – Domestic union is the legal institution by which the State of Rhode Island sanctions legal kinship between two (2) adult spouses. Domestic union is recognized by the state in order to promote stable domestic relationships and to guarantee the legal rights and responsibilities concomitant to spousal and family relationships.

Any person who otherwise meets the eligibility requirements of sections 15-1.1-1, 15-1.1-2, 15-1.1-3 and 15-1.1-4 may enter into a domestic union with any other eligible person regardless of gender, subject to satisfying the criteria set forth herein.

15-1.1-2. Domestic union with kindred forbidden. – No person shall enter into a domestic union with his or her parent, grandparent, child, grandchild, stepparent, grandparents' spouse, child's spouse, grandchild's spouse, spouse's parent, spouse's grandparent, spouse's child, spouse's grandchild, sibling, sibling's child or parents' sibling.

15-1.1-3. Incestuous domestic unions void. – If any person enters into a domestic union within the degrees stated in section 15-1.1-2, the union shall be null and void.

15-1.1-4. Domestic unions of kindred allowed by Jewish religion. – The provisions of sections 15-1.1-2 and 15-1.1-3 shall not extend to, or in any way, effect any domestic union which shall be solemnized among the Jewish people, within the degrees of affinity or consanguinity allowed by their religion.

SECTION 3. Section 15-2-1 of the General Laws in Chapter 15-2 entitled "Marriage Licenses" is hereby amended to read as follows:

15-2-1. ~~License required -- Proof of divorce~~ Domestic union license required. -- ~~(a) Persons intending to be joined together in marriage in this state must first obtain a license from the clerk of the town or city in which:~~

~~(1) The female party to the proposed marriage resides; or in the city or town in which~~

~~(2) The male party resides, if the female party is a nonresident of this state; or in the city or town in which~~

~~(3) The proposed marriage is to be performed, if both parties are nonresidents of this state.~~

~~(b) Before any license shall be issued to any person who, having been previously married, has been divorced, the person shall present to the town or city clerk an authenticated copy of the decree granting the divorce.~~

(a) Subject to eligibility requirements set forth in chapters 15-1.1 and 15-2: Persons intending to be joined together in domestic union must first obtain a license from the clerk of the town or city which: Either party to the proposed domestic union resides, or the city or town where the proposed domestic union is to be solemnized.

(b) Before any license shall be issued to any person who has previously entered into a domestic union, marriage, domestic partnership or equivalent domestic legal status in this state or any other, that person shall present to the town or city clerk an authenticated copy of the decree of dissolution or divorce.

SECTION 4. Chapter 15-3 of the General Laws entitled "Solemnization of Marriages" is hereby amended by adding thereto the following section:

15-3-5.1. Freedom of conscience protected. – (a) Religious organizations protected. Notwithstanding any other provision of law, no religious or denominational organization, no organization operated for charitable or educational purposes which is supervised or controlled by or in connection with a religious organization, and no individual employed by any of the foregoing organizations, while acting in the scope of that employment, shall be required to:

(1) Provide services, accommodations, advantages, facilities, goods, or privileges for a purpose related to the solemnization or celebration of any domestic union; or

(2) Solemnize any domestic union; or

(3) Treat as valid any domestic union

if such providing, solemnizing, or treating as valid would cause such organizations or individuals to violate their sincerely held religious beliefs.

(b) Individuals and small businesses protected.

(1) Except as provided in subdivision (b)(2), no individual, sole proprietor, or small business shall be required to provide goods or services that assist or promote the solemnization or celebration of any domestic union, or provide counseling or other services that directly facilitate the perpetuation of any domestic union if providing such goods and services would cause such individuals or sole proprietors, or owners of such small businesses, to violate their sincerely held religious beliefs.

(2) Subdivision (b)(1) shall not apply if:

(i) A party to the domestic union is unable to obtain any similar good or services elsewhere without substantial hardship; or

(ii) In the case of an individual who is a government employee or official, if another government employee or official is not promptly available and willing to provide the requested government service without inconvenience or delay; provided that no judicial officer authorized to solemnize domestic unions shall be required to do so if that act would violate the judicial officer's sincerely held religious beliefs.

(3) A "small business" within the meaning of subdivision (b)(1) is a legal entity other than a natural person:

(i) That provide services which are primarily performed by an owner of the business; or

(ii) That has five (5) or fewer employees.

(c) No civil cause of action or other penalties. No refusal to provide services, accommodations, advantages, facilities, goods or privileges protected by this section shall:

(1) Result in a civil claim or cause of action challenging such refusal; or

(2) Result in any action by the state or any of its subdivisions to penalize or withhold benefits from any protected entity or individual under any laws of this state or its subdivisions, including, but not limited to, laws regarding employment discrimination, housing, public accommodations, educational institutions, licensing, government contracts or grants, or tax exempt status.

SECTION 5. Nothing in this act shall be construed to deprive an individual of any federal or state governmental benefit, privilege, or obligation, including, but not limited to, social security, veterans' benefits or associated rights of survivorship.

For the purpose of construing an individual's domestic status under the laws of Rhode Island, the United States, and its sovereign states and territories, domestic union shall be interpreted to afford all rights, privileges and obligations concomitant with recognized domestic relations in those jurisdictions, including, but not limited to, the legal status of marriage.

Nothing in this act shall affect the validity of existing vital records, marriages, adoptions, divorces, court proceedings and record or any other business or personal relationships.

Nothing in this act shall be construed to oppose statutes or precedent governing domestic relations except as related to the recognition of domestic status conferred by a foreign jurisdiction (Rhode Island will afford full faith and credit and expects reciprocity).

SECTION 6. All general and public laws affected by this chapter shall be revised, amended, consolidated or conformed by the law revision office. Whenever in general and public laws reference is made to "Marriage" and/or "Married" and/or "Marry" the law revision director shall proceed to the provisions set out in section 22-11-3.4 to change these references to "Domestic Unions".

SECTION 7. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO DOMESTIC RELATIONS -- DOMESTIC UNIONS

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This act creates a statutory right to enter into domestic unions.

This act would take effect upon passage.

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