

## CHAPTER 61

### HB 73 – FINAL VERSION

05/20/09 1714s

03Jun2009... 1995cofc

2009 SESSION

09-0317

05/01

#### HOUSE BILL 73

AN ACT affirming religious freedom protections with regard to marriage and prohibiting the establishment of civil unions on or after January 1, 2010.

SPONSORS: Rep. Weber, Ches 2; Sen. Lasky, Dist 13

COMMITTEE: Judiciary

#### AMENDED ANALYSIS

This bill affirms religious freedom protections with regard to marriage. The bill also prohibits establishment of civil unions on or after January 1, 2010. This bill is contingent upon the enactment of HB 436-FN-LOCAL and HB 310-FN of the 2009 legislative session.

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Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough~~.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nine*

AN ACT affirming religious freedom protections with regard to marriage and prohibiting the establishment of civil unions on or after January 1, 2010.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

61:1 New Paragraph: Affirmation of Freedom of Religion in Marriage. Amend RSA 457:37 by inserting the following introductory paragraph:

Each religious organization, association, or society has exclusive control over its own religious doctrine, policy, teachings, and beliefs regarding who may marry within their faith.

61:2 New Paragraphs; Affirmation of Freedom of Religion in Marriage. Amend RSA 457:37 by inserting after paragraph II the following new paragraphs:

III. Notwithstanding any other provision of law, a religious organization, association, or society, or any individual who is managed, directed, or supervised by or in conjunction with a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, shall not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if such request for such services, accommodations, advantages, facilities, goods, or privileges is related to the solemnization of a marriage, the celebration of a marriage, or the promotion of marriage through religious counseling, programs, courses, retreats, or housing designated for married individuals, and such solemnization, celebration, or promotion of marriage is in violation of his or her religious beliefs and faith. Any refusal to provide services, accommodations, advantages, facilities, goods, or privileges in accordance with this section shall not create any civil claim or cause of action or result in any state action to penalize or withhold benefits from such religious organization, association, or society, or any individual who is managed, directed, or supervised by or in conjunction with a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society.

IV. The marriage laws of this state shall not be construed to affect the ability of a fraternal benefit society to determine the admission of members pursuant to RSA 418:5, and shall not require a fraternal benefit society that has been established and is operating for charitable or educational purposes and which is operated, supervised, or controlled by or in connection with a religious organization to provide insurance benefits to any person if to do so would violate the fraternal benefit society's free exercise of religion as guaranteed by the First Amendment of the United States Constitution and part I, article 5 of the New Hampshire constitution.

V. Nothing in this chapter shall be deemed or construed to limit the protections and exemptions provided to religious organizations under RSA 354-A:18.

61:3 Obtaining Legal Status of Marriage. Amend RSA 457:46, I to read as follows:

I. ***Notwithstanding the provisions of RSA 457-A, no new civil unions shall be established on or after January 1, 2010.*** Two consenting persons who are parties to a valid civil union entered into prior to January 1, 2010 pursuant to this chapter may apply and receive a marriage license and have such marriage solemnized pursuant to RSA 457, provided that the parties are otherwise eligible to marry under RSA 457 and the parties to the marriage are the same as the parties to the civil union. Such parties may also apply by January 1, 2011 to the clerk of the town or city in which their civil union is recorded to have their civil union legally designated and recorded as a marriage, without any additional requirements of payment of marriage licensing fees or solemnization contained in RSA 457, provided that such parties' civil union was not previously dissolved or annulled. Upon application, the parties shall be issued a marriage certificate, and such marriage certificate shall be recorded with the division of vital records administration. Any civil union shall be dissolved by operation of law by any marriage of the same parties to each other, as of the date of the marriage stated in the certificate.

61:4 Contingency. If HB 436-FN-LOCAL and HB 310-FN of the 2009 regular legislative session become law, sections 1, 2, and 3 of this act shall take effect January 1, 2010 at 12:02 a.m. If HB 436-FN-LOCAL and HB 310-FN of the 2009 regular legislative session do not become law, sections 1, 2, and 3 of this act shall not take effect.

61:5 Effective Date.

I. Sections 1, 2, and 3 of this act shall take effect as provided in section 4 of this act.

II. The remainder of this act shall take effect upon its passage.

Approved: June 3, 2009

Effective Date: I. Sections, 1, 2 and 3 shall take effect as provided in section 4.

II. Remainder shall take effect June 3, 2009.