

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 Religious Freedom and Marriage Fairness Act.

6 Section 5. Purposes; rules of construction. This Act shall
7 be liberally construed and applied to promote its underlying
8 purpose, which is to provide same-sex and different-sex couples
9 and their children equal access to the status, benefits,
10 protections, rights, and responsibilities of civil marriage.
11 Nothing in this Act is intended to abrogate, limit, or expand
12 the ability of a religious denomination to exercise First
13 Amendment rights protected by the United States Constitution or
14 the Illinois Constitution nor is it intended to abrogate,
15 limit, or expand the Illinois Human Rights Act or the Religious
16 Freedom Restoration Act.

17 Section 7. Private clubs. Nothing in this Act is intended
18 to abrogate, limit, or expand the exemption for private clubs
19 under Section 5-103 of the Illinois Human Rights Act.

20 Section 10. Equal access to marriage.

21 (a) All laws of this State applicable to marriage, whether

1 they derive from statute, administrative or court rule, policy,
2 common law, or any other source of civil or criminal law, shall
3 apply equally to marriages of same-sex and different-sex
4 couples and their children.

5 (b) Parties to a marriage and their children, regardless
6 of whether the marriage consists of a same-sex or different-sex
7 couple, shall have all the same benefits, protections, and
8 responsibilities under law, whether they derive from statute,
9 administrative or court rule, policy, common law, or any other
10 source of civil or criminal law.

11 (c) Parties to a marriage shall be included in any
12 definition or use of terms such as "spouse", "family",
13 "immediate family", "dependent", "next of kin", "wife",
14 "husband", "bride", "groom", "wedlock", and other terms that
15 refer to or denote the spousal relationship, as those terms are
16 used throughout the law, regardless of whether the parties to a
17 marriage are of the same sex or different sexes.

18 (d) To the extent the law of this State adopts, refers to,
19 or relies upon provisions of federal law as applicable to this
20 State, parties to a marriage of the same sex and their children
21 shall be treated under the law of this State as if federal law
22 recognizes the marriages of same-sex couples in the same manner
23 as the law of this State.

24 Section 15. Religious freedom. Nothing in this Act shall
25 interfere with or regulate the religious practice of any

1 religious denomination or Indian Nation or Tribe or Native
2 Group. Any religious denomination or Indian Nation or Tribe or
3 Native Group is free to choose which marriages it will
4 solemnize or celebrate.

5 Section 20. Severability. If any part of this Act or its
6 application to any person or circumstance is adjudged invalid,
7 such adjudication or application shall not affect the validity
8 of this Act as a whole or of any other part.

9 Section 905. The Illinois Marriage and Dissolution of
10 Marriage Act is amended by changing Sections 201, 209, and 212
11 and by adding Section 220 as follows:

12 (750 ILCS 5/201) (from Ch. 40, par. 201)

13 Sec. 201. Formalities.) A marriage between 2 persons ~~a man~~
14 ~~and a woman~~ licensed, solemnized and registered as provided in
15 this Act is valid in this State.

16 (Source: P.A. 80-923.)

17 (750 ILCS 5/209) (from Ch. 40, par. 209)

18 Sec. 209. Solemnization and Registration.)

19 (a) A marriage may be solemnized by a judge of a court of
20 record, by a retired judge of a court of record, unless the
21 retired judge was removed from office by the Judicial Inquiry
22 Board, except that a retired judge shall not receive any

1 compensation from the State, a county or any unit of local
2 government in return for the solemnization of a marriage and
3 there shall be no effect upon any pension benefits conferred by
4 the Judges Retirement System of Illinois, by a judge of the
5 Court of Claims, by a county clerk in counties having 2,000,000
6 or more inhabitants, by a public official whose powers include
7 solemnization of marriages, or in accordance with the
8 prescriptions of any religious denomination, Indian Nation or
9 Tribe or Native Group, provided that when such prescriptions
10 require an officiant, the officiant be in good standing with
11 his or her religious denomination, Indian Nation or Tribe or
12 Native Group. Either the person solemnizing the marriage, or,
13 if no individual acting alone solemnized the marriage, both
14 parties to the marriage, shall complete the marriage
15 certificate form and forward it to the county clerk within 10
16 days after such marriage is solemnized.

17 (a-5) Nothing in this Act shall be construed to require any
18 religious denomination or Indian Nation or Tribe or Native
19 Group, or any minister, clergy, or officiant acting as a
20 representative of a religious denomination or Indian Nation or
21 Tribe or Native Group, to solemnize any marriage. Instead, any
22 religious denomination or Indian Nation or Tribe or Native
23 Group, or any minister, clergy, or officiant acting as a
24 representative of a religious denomination or Indian Nation or
25 Tribe or Native Group is free to choose which marriages it will
26 solemnize. Notwithstanding any other law to the contrary, a

1 refusal by a religious denomination or Indian Nation or Tribe
2 or Native Group, or any minister, clergy, or officiant acting
3 as a representative of a religious denomination or Indian
4 Nation or Tribe or Native Group to solemnize any marriage under
5 this Act shall not create or be the basis for any civil,
6 administrative, or criminal penalty, claim, or cause of action.

7 (a-10) No church, mosque, synagogue, temple,
8 nondenominational ministry, interdenominational or ecumenical
9 organization, mission organization, or other organization
10 whose principal purpose is the study, practice, or advancement
11 of religion is required to provide religious facilities for the
12 solemnization ceremony or celebration associated with the
13 solemnization ceremony of a marriage if the solemnization
14 ceremony or celebration associated with the solemnization
15 ceremony is in violation of its religious beliefs. An entity
16 identified in this subsection (a-10) shall be immune from any
17 civil, administrative, criminal penalty, claim, or cause of
18 action based on its refusal to provide religious facilities for
19 the solemnization ceremony or celebration associated with the
20 solemnization ceremony of a marriage if the solemnization
21 ceremony or celebration associated with the solemnization
22 ceremony is in violation of its religious beliefs. As used in
23 this subsection (a-10), "religious facilities" means
24 sanctuaries, parish halls, fellowship halls, and similar
25 facilities. "Religious facilities" does not include facilities
26 such as businesses, health care facilities, educational

1 facilities, or social service agencies.

2 (b) The solemnization of the marriage is not invalidated by
3 the fact that the person solemnizing the marriage was not
4 legally qualified to solemnize it, if either party to the
5 marriage believed him or her to be so qualified or by the fact
6 that the marriage was inadvertently solemnized in a county in
7 Illinois other than the county where the license was issued.

8 (Source: P.A. 95-775, eff. 1-1-09.)

9 (750 ILCS 5/212) (from Ch. 40, par. 212)

10 Sec. 212. Prohibited Marriages.

11 (a) The following marriages are prohibited:

12 (1) a marriage entered into prior to the dissolution of
13 an earlier marriage, civil union, or substantially similar
14 legal relationship of one of the parties, unless the
15 parties to the marriage are the same as the parties to a
16 civil union and are seeking to convert their civil union to
17 a marriage pursuant to Section 65 of the Illinois Religious
18 Freedom Protection and Civil Union Act;

19 (2) a marriage between an ancestor and a descendant or
20 between siblings ~~a brother and a sister~~, whether the
21 relationship is by the half or the whole blood or by
22 adoption;

23 (3) a marriage between an uncle and a niece, between an
24 uncle and a nephew, ~~or~~ between an aunt and a nephew, or
25 between an aunt and a niece, whether the relationship is by

1 the half or the whole blood;

2 (4) a marriage between cousins of the first degree;
3 however, a marriage between first cousins is not prohibited
4 if:

5 (i) both parties are 50 years of age or older; or

6 (ii) either party, at the time of application for a
7 marriage license, presents for filing with the county
8 clerk of the county in which the marriage is to be
9 solemnized, a certificate signed by a licensed
10 physician stating that the party to the proposed
11 marriage is permanently and irreversibly sterile;

12 (5) (blank). ~~a marriage between 2 individuals of the~~
13 ~~same sex.~~

14 (b) Parties to a marriage prohibited under subsection (a)
15 of this Section who cohabit after removal of the impediment are
16 lawfully married as of the date of the removal of the
17 impediment.

18 (c) Children born or adopted of a prohibited or common law
19 marriage are the lawful children of the parties.

20 (Source: P.A. 94-229, eff. 1-1-06.)

21 (750 ILCS 5/220 new)

22 Sec. 220. Consent to jurisdiction. Members of a same-sex
23 couple who enter into a marriage in this State consent to the
24 jurisdiction of the courts of this State for the purpose of any
25 action relating to the marriage, even if one or both parties

1 cease to reside in this State. A court shall enter a judgment
2 of dissolution of marriage if at the time the action is
3 commenced, it meets the grounds for dissolution of marriage set
4 forth in this Act.

5 (750 ILCS 5/213.1 rep.)

6 Section 910. The Illinois Marriage and Dissolution of
7 Marriage Act is amended by repealing Section 213.1.

8 Section 915. The Illinois Religious Freedom Protection and
9 Civil Union Act is amended by changing Section 60 and by adding
10 Section 65 as follows:

11 (750 ILCS 75/60)

12 Sec. 60. Respect for marriages and civil unions entered
13 into in other jurisdictions ~~Reciprocity. A marriage between~~
14 ~~persons of the same sex, a civil union, or a substantially~~
15 ~~similar legal relationship other than common law marriage,~~
16 ~~legally entered into in another jurisdiction, shall be~~
17 ~~recognized in Illinois as a civil union. A marriage, whether of~~
18 ~~the same sex or different sexes and providing that it is not a~~
19 ~~common law marriage, legally entered into in another~~
20 ~~jurisdiction, shall be recognized in this State as a marriage~~
21 ~~in accordance with the provisions of the Illinois Marriage and~~
22 ~~Dissolution of Marriage Act, except that Section 216 of the~~
23 ~~Illinois Marriage and Dissolution of Marriage Act shall not~~

1 apply to marriages of same-sex couples validly entered into in
2 another jurisdiction.

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

4 (750 ILCS 75/65 new)

5 Sec. 65. Voluntary conversion of civil union to marriage.

6 (a) Parties to a civil union may apply for and receive a
7 marriage license and have the marriage solemnized and
8 registered under Section 209 of the Illinois Marriage and
9 Dissolution of Marriage Act, provided the parties are otherwise
10 eligible to marry and the parties to the marriage are the same
11 as the parties to the civil union. The fee for application for
12 a marriage license shall be waived in such circumstances.

13 (b) For a period of one year following the effective date
14 of this amendatory Act of the 98th General Assembly, parties to
15 a civil union may have their civil union legally designated and
16 recorded as a marriage, deemed effective on the date of
17 solemnization of the civil union, without payment of any fee,
18 provided the parties' civil union has not been dissolved and
19 there is no pending proceeding to dissolve the civil union.
20 Upon application to a county clerk, the parties shall be issued
21 a marriage certificate. The parties' signatures on the marriage
22 certificate and return of the signed certificate for recording
23 shall be sufficient to convert the civil union into a marriage.
24 The county clerk shall notify the Department of Public Health
25 within 45 days by furnishing a copy of the certificate to the

1 Department of Public Health.

2 (c) When parties to a civil union have married, or when
3 their civil union has been converted to a marriage under this
4 Section, the parties, as of the date stated on the marriage
5 certificate, shall no longer be considered in a civil union,
6 but rather shall be in a legal marriage.

7 Section 997. Severability. The provisions of this Act are
8 severable under Section 1.31 of the Statute on Statutes.