

Public Act 96-1513

Civil Union Law Highlights

Starting June 1 2011, Civil Union licenses will be issued by county clerks in Illinois.

- ✓ They will be available to same-sex and heterosexual couples of at least 18 years of age.
- ✓ The clerk's office does not perform a ceremony. After obtaining a license, a couple must wait until the following day to have their union certified by an officiant such as a judge or religious official.
- ✓ The license will be valid for a ceremony held within 60 days of being issued.
- ✓ The officiant must return the certified license to the clerk's office as proof of the union within 10 days of their ceremony.
- ✓ We believe the fee will be \$35. Couples who are currently registered as Domestic Partners in Cook County will receive a \$20 discount towards their Civil Union application and their Domestic Partnership will be automatically dissolved.
- ✓ A Civil Union must be dissolved in court like divorce, rather than simply by notifying your local county clerk.

Benefits of a Civil Union:

- ✓ Health insurance for partner;
- ✓ Partners automatically considered parents;
- ✓ Hospital visitation/health care decision rights;
- ✓ State benefits for partners of military veterans;
- ✓ Right to sue over partner's death.

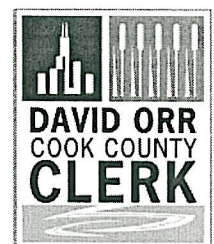
Differences from marriage:

- ✓ Not recognized in all states;
- ✓ Can't file joint federal tax returns;
- ✓ Can't inherit partner's property without paying federal taxes;
- ✓ Can't receive Social Security payments upon partner's death;
- ✓ Can't get immigration benefits for partner.

NOTE: This is not a comprehensive list.

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SB1716 Enrolled

LRB096 04132 AJO 14173 b

AN ACT concerning civil law.

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

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

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

Section 10. Definitions. As used in this Act:

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

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

"Department" means the Department of Public Health.

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

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

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

Section 20. Protections, obligations, and responsibilities. A party to a civil union is entitled to the same legal obligations, responsibilities, protections, and benefits as are afforded or recognized by the law of Illinois to spouses, whether they derive from statute, administrative

rule, policy, common law, or any other source of civil or criminal law.

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

- (1) a civil union entered into prior to both parties attaining 18 years of age;
- (2) a civil union entered into prior to the dissolution of a marriage or civil union or substantially similar legal relationship of one of the parties;
- (3) a civil union between an ancestor and a descendent or between siblings whether the relationship is by the half or the whole blood or by adoption;
- (4) a civil union between an aunt or uncle and a niece or nephew, whether the relationship is by the half or the whole blood or by adoption; and
- (5) a civil union between first cousins.

Section 30. Application, license, and certification.

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

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

- (1) name, sex, occupation, address, social security number, date and place of birth of each party to the civil union;
- (2) name and address of the parents or guardian of each party;
- (3) whether the parties are related to each other and, if so, their relationship; and
- (4) in the event either party was previously married or entered into a civil union or a substantially similar legal relationship, provide the name, date, place and the court in which the marriage or civil union or substantially similar legal relationship was dissolved or declared invalid or the date and place of death of the former spouse or of the party to the civil union or substantially similar legal relationship.

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

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

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

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

Section 35. Duties of the county clerk.

(a) Before issuing a civil union license to a person who resides and intends to continue to reside in another state, the county clerk shall satisfy himself or herself by requiring

affidavits or otherwise that the person is not prohibited from entering into a civil union or substantially similar legal relationship by the laws of the jurisdiction where he or she resides.

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

- (1) a copy of the application signed and attested to by the applicants, except that in any county in which the information provided in a civil union application is entered into a computer, the county clerk may submit a computer copy of the information without the signatures and attestations of the applicants;
- (2) the license number;
- (3) a copy of the certificate; and
- (4) the date and location of the civil union.

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

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

Section 40. Certification. A civil union may be certified: by a judge of a court of record; by a retired judge of a court of record, unless the retired judge was removed from office by the Judicial Inquiry Board, except that a retired judge shall not receive any compensation from the State, a county, or any unit of local government in return for the solemnization of a civil union and there shall be no effect upon any pension benefits conferred by the Judges Retirement System of Illinois; by a judge of the Court of Claims; by a county clerk in counties having 2,000,000 or more inhabitants; by a public official whose powers include solemnization of marriages; or in accordance with the prescriptions of any religious denomination, Indian Nation or Tribe or Native Group, provided that when such prescriptions require an officiant, the officiant be in good standing with his or her religious denomination, Indian Nation or Tribe or Native Group. The person performing a civil union shall complete the certificate and forward it to the county clerk within 10 days after a civil union.

Section 45. Dissolution; declaration of invalidity. Any person who enters into a civil union in Illinois consents to the jurisdiction of the courts of Illinois for the purpose of any action relating to a civil union even if one or both parties cease to reside in this State. A court shall enter a judgment of dissolution of a civil union if at the time the action is commenced it meets the grounds for dissolution set forth in Section 401 of the Illinois Marriage and Dissolution of Marriage Act. The provisions of Sections 401 through 413 of the Illinois Marriage and Dissolution of Marriage Act shall apply to a dissolution of a civil union. The provisions of Sections 301 through 306 of the Illinois Marriage and Dissolution of Marriage Act shall apply to the declaration of

invalidity of a civil union.

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

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

Section 60. Reciprocity. 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.

Section 90. Severability. If any part of this Act 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 of any other part.

Effective Date: 6/1/2011