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# A BILL FOR AN ACT

RELATING TO CIVIL UNIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Act 1, Session Laws of Hawaii 2011, gave civil  
2 union partners all the same rights, benefits, protections, and  
3 responsibilities under law as those who contract, obtain a  
4 license, and are solemnized pursuant to chapter 572, Hawaii  
5 Revised Statutes. During the months of preparation to implement  
6 Act 1 and in the time since Act 1 became effective on January 1,  
7 2012, however, it has become clear that certain provisions of  
8 the civil unions law would benefit from additional clarification  
9 to minimize confusion and aid in the proper implementation of  
10 Act 1. Therefore, in making these amendments with this Act, it  
11 is the legislature's intent to reconfirm and clarify the  
12 provisions of chapter 572B, Hawaii Revised Statutes, as enacted  
13 by Act 1, Session Laws of Hawaii 2011. Nothing in this Act  
14 shall be interpreted to weaken, lessen, expand, or enlarge any  
15 of the protections, obligations, rights, and responsibilities  
16 governed by any provision of Act 1.



1 SECTION 2. Chapter 509, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§509- Tenancy by the entirety when owners change  
5 relationship status. (a) When two individuals who hold  
6 property as tenants by the entirety enter into a different legal  
7 relationship with each other that also allows them to hold  
8 property as tenants by the entirety, their ownership as tenants  
9 by the entirety shall be continuous:

10 (1) If the new legal relationship is entered into  
11 simultaneously with the termination of the earlier  
12 legal relationship; or

13 (2) If the new legal relationship is entered into within  
14 ninety days after the termination of the earlier legal  
15 relationship; provided that no liens were perfected  
16 and attached on the property in the interim.

17 (b) The continuity of a tenancy by the entirety under this  
18 section shall apply to couples married under chapter 572, civil  
19 union partners under chapter 572B, and reciprocal beneficiaries  
20 under chapter 572C.



1        (c) Nothing in this section precludes any individuals from  
2 opting to hold their property in another manner as permitted  
3 under this chapter.

4        (d) Nothing in this section shall impact liens perfected  
5 and attached on the property after the earlier legal  
6 relationship was terminated and before the date this Act became  
7 law upon its approval."

8        SECTION 3. Chapter 572B, Hawaii Revised Statutes, is  
9 amended by adding two new sections to be appropriately  
10 designated and to read as follows:

11        **"§572B-A Rights held by reciprocal beneficiaries who enter**  
12 **into a civil union.** (a) If two reciprocal beneficiaries enter  
13 into a civil union with each other, the rights, benefits,  
14 protections, or responsibilities created by the reciprocal  
15 beneficiary relationship shall be continuous through the civil  
16 union and deemed to have accrued as of the first date these  
17 rights existed under the reciprocal beneficiary relationship;  
18 provided that the individuals terminated their reciprocal  
19 beneficiary relationship simultaneously with their entry into a  
20 civil union, or within the ninety days immediately preceding  
21 their entry into a civil union.



1        (b) Any rights, benefits, protections, or responsibilities  
2 created by the solemnization of a civil union that were not  
3 included within a reciprocal beneficiary relationship shall be  
4 recognized as of the date the civil union was solemnized.

5        (c) Property held in tenancy by the entirety shall be  
6 subject to section 509- .

7        **572B-B Religious organizations and facilities; liability**

8 **exemption under certain circumstances.** (a) A religious  
9 organization shall not be required to make a religious facility  
10 owned or leased by the religious organization available for  
11 solemnization of a civil union; provided that:

12        (1) The religious facility is regularly used by the  
13 religious organization for its religious purposes;

14        (2) For solemnization of marriages pursuant to chapter  
15 572, the religious organization restricts use of the  
16 religious facility to its members; and

17        (3) The religious organization does not operate the  
18 religious facility as a for profit business.

19        (b) A religious organization that refuses to make a  
20 religious facility available for solemnization of a civil union  
21 under subsection (a) shall not be subject to any fine, penalty,  
22 or civil liability for the refusal.



1        (c) Nothing in this section shall be interpreted to exempt  
2 the owner or operator of any religious facility from the  
3 requirements of chapter 489 if the religious facility is a place  
4 of public accommodation as defined in section 489-2."

5        SECTION 4. Section 572-1, Hawaii Revised Statutes, is  
6 amended to read as follows:

7        "**§572-1 Requisites of valid marriage contract.** In order  
8 to make valid the marriage contract, which shall be only between  
9 a man and a woman, it shall be necessary that:

10        (1) The respective parties do not stand in relation to  
11 each other of ancestor and descendant of any degree  
12 whatsoever, brother and sister of the half as well as  
13 to the whole blood, uncle and niece, aunt and nephew,  
14 whether the relationship is the result of the issue of  
15 parents married or not married to each other[+] or  
16 parents who are partners in a civil union or not  
17 partners in a civil union;

18        (2) Each of the parties at the time of contracting the  
19 marriage is at least sixteen years of age; provided  
20 that with the written approval of the family court of  
21 the circuit within which the minor resides, it shall  
22 be lawful for a person under the age of sixteen years,



- 1 but in no event under the age of fifteen years, to  
2 marry, subject to section 572-2;
- 3 (3) The man does not at the time have any lawful wife or  
4 civil union partner living and that the woman does not  
5 at the time have any lawful husband or civil union  
6 partner living;
- 7 (4) Consent of neither party to the marriage has been  
8 obtained by force, duress, or fraud;
- 9 (5) Neither of the parties is a person afflicted with any  
10 loathsome disease concealed from, and unknown to, the  
11 other party;
- 12 (6) The man and woman to be married in the State shall  
13 have duly obtained a license for that purpose from the  
14 agent appointed to grant marriage licenses; and
- 15 (7) The marriage ceremony be performed in the State by a  
16 person or society with a valid license to solemnize  
17 marriages and the man and the woman to be married and  
18 the person performing the marriage ceremony be all  
19 physically present at the same place and time for the  
20 marriage ceremony."

21 SECTION 5. Section 572B-2, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           " ~~[+]§572B-2[+]~~ Eligibility to enter into a civil union. A  
2 person shall be eligible to enter into a civil union only if the  
3 person is:

- 4           (1) Not a partner in another civil union~~[7]~~ or a spouse in  
5 a marriage~~[, or a party to a reciprocal beneficiary~~  
6 ~~relationship pursuant to chapter 572C]~~;  
7           (2) At least eighteen years of age; and  
8           (3) Not related to the other proposed partner in the civil  
9 union, as provided in section 572B-3."

10           SECTION 6. Section 572B-4, Hawaii Revised Statutes, is  
11 amended by amending subsections (b) and (c) to read as follows:

12           "(b) Any judge or retired judge, including a federal judge  
13 or judge of another state who may legally join persons in  
14 chapter 572 or a civil union, may solemnize a civil union. Any  
15 ~~[ordained or licensed member of the clergy]~~ minister, priest, or  
16 officer of any religious denomination or society who has been  
17 ordained or is authorized to solemnize civil unions according to  
18 the usages of such denomination or society, or any religious  
19 society not having clergy but providing solemnization in  
20 accordance with the rules and customs of that society, may  
21 solemnize a civil union. ~~[Solemnization may be entirely secular~~  
22 ~~or may be performed according to the forms and usages of any~~



1 ~~religious denomination in this State. Nothing in this section~~  
2 ~~shall be construed to require any person authorized to perform~~  
3 ~~solemnizations of marriages or civil unions to perform a~~  
4 ~~solemnization of a civil union, and no such authorized person~~  
5 ~~who fails or refuses for any reason to join persons in a civil~~  
6 ~~union shall be subject to any fine or other penalty for the~~  
7 ~~failure or refusal.]~~

8 (c) Nothing in this section shall be construed to require  
9 any person authorized to perform solemnizations pursuant to  
10 chapter 572 or civil unions pursuant to this chapter to perform  
11 a solemnization of a civil union, and no such authorized person  
12 who fails or refuses for any reason to join persons in a civil  
13 union shall be subject to any fine [~~or other~~], penalty, or other  
14 civil action for the failure or refusal."

15 SECTION 7. Section 572B-5, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) No persons may be joined in a civil union in this  
18 State unless both partners have:

19 (1) Met the requirements of section 572B-2;

20 (2) Complied with section 572B-6 and, if applicable,  
21 section 572B-7; and





1 (3) Been issued a license by an agent [~~in the judicial~~  
 2 ~~circuit in which a civil union is to be solemnized or~~  
 3 ~~in which either person resides~~], which license shall  
 4 bear the certification of the agent that the persons  
 5 named therein have met the requirements of section  
 6 572B-2 and have complied with section 572B-6 and, if  
 7 applicable, section 572B-7."

8 SECTION 8. Section 572B-6, Hawaii Revised Statutes, is  
 9 amended by amending subsection (b) to read as follows:

10 "(b) The fee for a license to enter into a civil union  
 11 shall be an amount equal to the amount prescribed in section  
 12 572-5, and all amounts collected [~~by the agent~~] pursuant to  
 13 section 321-1(g) as application fees under this chapter shall be  
 14 retained or remitted and apportioned in the same manner as  
 15 prescribed in section 572-5."

16 SECTION 9. Section 572B-8, Hawaii Revised Statutes, is  
 17 amended by amending subsections (a) and (b) to read as follows:

18 "(a) Each person who solemnizes a civil union shall  
 19 certify upon the civil union license certificate [~~the fact,~~  
 20 ~~time, and place of the solemnization of the civil union~~] all the  
 21 facts required to be stated in a standard certificate of civil  
 22 union, the form and contents of which shall be prescribed by the



1 department of health, and return the certificate to the [agent]  
2 department of health within three business days following the  
3 solemnization of the civil union, or as may otherwise be  
4 prescribed by the department of health.

5 (b) If any person who has solemnized a civil union fails  
6 to return the certificate to the [agent] department of health as  
7 required under subsection (a), the partners joined in a civil  
8 union may provide the [agent] department of health with a  
9 notarized affidavit attesting to the fact that they were joined  
10 in a civil union and stating the date and place of the  
11 solemnization of the civil union. Upon the receipt of that  
12 affidavit by the [agent,] department of health, the civil union  
13 of the partners shall be deemed to be valid as of the date of  
14 the solemnization of the civil union stated in the affidavit."

15 SECTION 10. Section 572B-10, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 " ~~[+]§572B-10[}—Civil unions]~~ Unions performed in other  
18 jurisdictions. ~~[All unions entered into in other jurisdictions~~  
19 ~~between two individuals not recognized under section 572-3 shall~~  
20 ~~be recognized as civil unions,]~~ A legal union of two persons  
21 that is not a marriage under chapter 572, which was validly  
22 formed in another jurisdiction, and which is substantially



1 equivalent to a civil union under this chapter, shall be  
2 recognized as a valid civil union in this State and shall be  
3 treated the same as a civil union entered into in this State  
4 regardless of whether it bears the name civil union; provided  
5 that the relationship meets the eligibility requirements of this  
6 chapter, has been entered into in accordance with the laws of  
7 that jurisdiction, and can be documented."

8 SECTION 11. Section 572C-4, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "~~[H]~~§572C-4~~[H]~~ **Requisites of a valid reciprocal**  
11 **beneficiary relationship.** In order to enter into a valid  
12 reciprocal beneficiary relationship, it shall be necessary that:  
13 (1) Each of the parties be at least eighteen years old;  
14 (2) Neither of the parties be married ~~[nor]~~, a party to  
15 another reciprocal beneficiary relationship~~[+]~~, or a  
16 partner in a civil union;  
17 (3) The parties be legally prohibited from marrying one  
18 another under chapter 572;  
19 (4) Consent of either party to the reciprocal beneficiary  
20 relationship has not been obtained by force, duress,  
21 or fraud; and



1 (5) Each of the parties sign a declaration of reciprocal  
2 beneficiary relationship as provided in section  
3 572C-5."

4 SECTION 12. Section 572C-7, Hawaii Revised Statutes, is  
5 amended by amending subsections (c) and (d) to read as follows:

6 "(c) [~~Any marriage license subsequently issued by the~~  
7 ~~department to any individual registered as a]~~ A reciprocal  
8 beneficiary relationship shall automatically terminate [~~the~~  
9 ~~individual's existing reciprocal beneficiary relationship.]~~

10 when:

11 (1) Either party to the reciprocal beneficiary  
12 relationship enters into a marriage or civil union  
13 solemnized by a person licensed by the department of  
14 health; or

15 (2) Either party to the reciprocal beneficiary  
16 relationship enters into a union outside the State  
17 that is recognized by law as a marriage or civil union  
18 in the State.

19 (d) If either party to a reciprocal beneficiary  
20 relationship enters into a legal marriage[~~7~~] or civil union, the  
21 parties shall no longer have a reciprocal beneficiary  
22 relationship and shall no longer be entitled to the rights and



1 benefits of reciprocal beneficiaries[-], except as provided in  
2 section 572B-A."

3 SECTION 13. Section 574-1, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§574-1 Married persons[-]; civil union partners.** Upon  
6 marriage or civil union, each of the parties to a marriage or  
7 partners in a civil union shall declare the middle and last  
8 names each will use as a married person[-] or civil union  
9 partner. The last name or names chosen may be any middle or  
10 last name legally used at any time, past or present, by either  
11 spouse[-] or partner, or any combination of such names, which  
12 may, but need not, be separated by a hyphen. The middle name or  
13 names chosen may be any middle or last name legally used at any  
14 time, past or present, by either spouse[-] or partner, or any  
15 combination of such names, which may, but need not, be separated  
16 by a hyphen."

17 SECTION 14. Section 574-5, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) It shall be unlawful to change any name adopted or  
20 conferred under this chapter, except:

21 (1) Upon an order of the lieutenant governor;



- 1 (2) By a final order, decree, or judgment of the family  
2 court issued as follows:
- 3 (A) When in an adoption proceeding a change of name  
4 of the person to be adopted is requested and the  
5 court includes the change of name in the adoption  
6 decree;
- 7 (B) When in a divorce proceeding either party to the  
8 proceeding requests to resume the middle name or  
9 names and the last name used by the party prior  
10 to the marriage or civil union or a middle name  
11 or names and last name declared and used during  
12 any prior marriage or civil union and the court  
13 includes the change of names in the divorce  
14 decree; or
- 15 (C) When in a proceeding for a change of name of a  
16 legitimate or legitimated minor initiated by one  
17 parent, the family court, upon proof that the  
18 parent initiating the name change has made all  
19 reasonable efforts to locate and notify the other  
20 parent of the name change proceeding but has not  
21 been able to locate, notify, or elicit a response  
22 from the other parent, and after an appropriate



1 hearing, orders a change of name determined to be  
2 in the best interests of the minor; provided that  
3 the family court may waive the notice requirement  
4 to the noninitiating, noncustodial parent where  
5 the court finds that the waiver is necessary for  
6 the protection of the minor;

7 (3) Upon marriage or civil union pursuant to section  
8 574-1;

9 (4) Upon legitimation pursuant to section 338-21; or

10 (5) By an order or decree of any court of competent  
11 jurisdiction within any state of the United States,  
12 the District of Columbia, the Commonwealth of Puerto  
13 Rico, or any territory or possession of the United  
14 States, changing the name of a person born in this  
15 State.

16 [~~Any~~] Notwithstanding any law to the contrary [~~notwithstanding~~],  
17 no person who is a covered offender subject to the registration  
18 requirements of section 846E-2 may obtain a name change, other  
19 than as provided in paragraph (2), (3), (4), or (5), unless a  
20 court determines that it is in the best interest of justice to  
21 grant the petition and that doing so will not adversely affect  
22 the public safety."



1 SECTION 15. Section 580-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§580-1 Jurisdiction; hearing. Exclusive original  
4 jurisdiction in matters of annulment, divorce, and separation,  
5 subject to section 603-37 as to change of venue, and subject  
6 also to appeal according to law, is conferred upon the family  
7 court of the circuit in which the applicant has been domiciled  
8 or has been physically present for a continuous period of at  
9 least three months next preceding the application therefor. No  
10 absolute divorce from the bond of matrimony shall be granted for  
11 any cause unless either party to the marriage has been domiciled  
12 or has been physically present in the State for a continuous  
13 period of at least six months next preceding the application  
14 therefor. A person who may be residing on any military or  
15 federal base, installation, or reservation within the State or  
16 who may be present in the State under military orders shall not  
17 thereby be prohibited from meeting the requirements of this  
18 section. The family court of each circuit shall have  
19 jurisdiction over all proceedings relating to the annulment,  
20 divorce, and separation of civil unions entered into in this  
21 State or unions recognized as civil unions in this State in the  
22 same manner as marriages."





1 SECTION 16. If two individuals terminated a reciprocal  
2 beneficiary relationship on or after October 3, 2011, but before  
3 the date this Act became law upon its approval, and the two  
4 individuals subsequently enter or entered into a civil union no  
5 later than ninety days after their reciprocal beneficiary  
6 relationship terminated, their reciprocal beneficiary  
7 relationship shall be deemed to continue uninterrupted until the  
8 civil union is or was solemnized. The couple shall suffer no  
9 loss or interruption of any rights, benefits, protections, or  
10 obligations derived from their reciprocal beneficiary  
11 relationship, and those rights, benefits, protections, or  
12 obligations shall be deemed to have accrued as of the first date  
13 they existed under the beneficiary relationship, if they meet  
14 the requirements of this section.

15 For purposes of this section, holding title to property as  
16 tenants by the entirety shall be included among the rights of a  
17 reciprocal beneficiary relationship that shall continue  
18 uninterrupted under this section; provided that no intervening  
19 liens were perfected and attached on the property after the  
20 reciprocal beneficiary relationship was terminated, and before  
21 the date this Act became law upon its approval.



1 SECTION 17. Notwithstanding subsection 572C-7(c), Hawaii  
2 Revised Statutes, if before the effective date of this section,  
3 two individuals entered into a valid legal union in another  
4 jurisdiction that is not a marriage recognized under chapter  
5 572, Hawaii Revised Statutes, and is substantially equivalent to  
6 a civil union under chapter 572B, Hawaii Revised Statutes, and  
7 are also parties to a reciprocal beneficiary relationship in  
8 this State, the reciprocal beneficiary relationship shall  
9 terminate and their valid legal union entered into in another  
10 jurisdiction shall be recognized as a civil union under section  
11 572B-10, Hawaii Revised Statutes, on the voluntary termination  
12 of the reciprocal beneficiary relationship under subsection  
13 572C-7(a), Hawaii Revised Statutes, but no later than one year  
14 after the date this Act becomes law upon its approval.

15 SECTION 18. In codifying the new sections added by section  
16 3 of this Act, the revisor of statutes shall substitute  
17 appropriate section numbers for the letters used in designating  
18 the new sections in this Act.

19 SECTION 19. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 20. This Act shall take effect retroactive to  
22 January 1, 2012; provided that:



- 1           (1) Section 16 shall take effect retroactive to October 3,  
2                    2011; and  
3           (2) Section 17 shall take effect upon its approval.



**Report Title:**

Civil Unions; Reciprocal Beneficiary Relationship;  
Solemnization; Names

**Description:**

Amends various statutory provisions related to civil unions for clarity and conformity. Provides uninterrupted rights for couples holding property in tenancy by the entirety who enter into a new legal relationship simultaneously with or within ninety days after the termination of an earlier legal relationship; provided that no liens were perfected and attached on the property in the interim. Provides for non-liability of religious organizations and religious facilities under certain circumstances. Ensures that rights held by certain reciprocal beneficiaries carryover to a civil union; provided that the reciprocal beneficiaries terminated their relationship simultaneously with or within ninety days after the termination of the reciprocal beneficiary relationship. Extends rights created by the solemnization of a civil union that were not included within a reciprocal beneficiary relationship to be recognized as of the date the civil union was solemnized. Amends various statutory provisions relating to solemnizations. Authorizes name change on the certificate of civil union. Confirms the family court has jurisdiction over the divorce, annulment, and separation of a union that is recognized as a civil union in this State. Allows reciprocal beneficiaries who enter into a legal union in another jurisdiction that is not marriage have their legal union recognized as a civil union; effective upon approval. Exempts religious organizations from liability under certain circumstances when refusing to make a religious facility available for solemnization of a civil union. Effective retroactive to January 1, 2012. (HB2569 CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

