AN ACT concerning civil law.

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

PART I. GENERAL PROVISIONS

Section 101. Short Title. This Act may be cited as the Illinois Religious Freedom Protection and Civil Unions Act.

Section 102. Religious Freedom. Nothing in this Act shall be construed to interfere with or regulate religious practice of the many faiths in Illinois that grant the status, sacrament, and blessing of marriage under wholly separate religious rules, practices, or traditions of such faiths. Additionally, nothing in this Act shall be construed as to require any religious body, Indian Nation, Indian Tribe, Native Group, or officiant thereof to solemnize or officiate a civil union or to prohibit any religious body, Indian Nation, Indian Tribe, Native Group, or officiant thereof from solemnizing or officiating a civil union. Any religious body, Indian Nation or Tribe or Native Group or officiant thereof is free to choose whether or not to solemnize and whether or not to officiate civil unions.

Section 103. Legislative Findings. The General Assembly
finds that:

(a) Legal recognition of marriage by Illinois is the primary and, in a number of instances, the exclusive source of numerous protections and responsibilities under the laws of Illinois for parties to a marriage and their children. These protections and responsibilities that are associated with marriage in Illinois are available only to opposite-sex couples. Thus, same-sex couples and their children are denied equal access to these protections and responsibilities.

(b) Many gay and lesbian residents of Illinois have formed lasting, committed, caring, and faithful relationships with a person of the same sex. These couples live together, serve and participate together in their communities, and rear children and care for family members together. Without the legal protections and responsibilities currently associated only with marriage, same-sex couples in Illinois suffer numerous obstacles and hardships.

(c) Illinois has a strong interest in promoting stable and lasting families, including families headed by a same-sex couple.

(d) There is a compelling interest and a rational basis for Illinois to permit same-sex couples the same protections and responsibilities afforded spouses under Illinois law.

(e) With this Act, Illinois builds on a long tradition of respect for individual rights and responsibilities, the commitments of spouses to each other and their families, and
equal protection of the laws. Accordingly, it is the public policy of this State to continue Illinois' history as a state in affording equal treatment and respect for all residents of Illinois as embodied in Article I, Sections 2 and 18 of the Illinois Constitution of 1970.

(f) It is also the public policy of this State to allow and to respect the private decision of all its residents to bind themselves to the obligations of and rights related to family relationships that are codified in this Act and set forth elsewhere under Illinois law.

Section 104. Definitions. For purposes of this Act:
"Civil union" means that 2 eligible persons have established a relationship pursuant to this Act, and may receive the protections and benefits of and be subject to the responsibilities of partners in a civil union.
"Civil union certificate" means a document that certifies that the persons named on the certificate have complied with the laws of the State of Illinois to establish a civil union in compliance with this Act.
"Partner in a civil union" and "partner to a civil union" mean a person who has established a civil union pursuant to this Act.
"Partners in a civil union" and "partners joined in a civil union" mean the 2 persons who have established a civil union between them pursuant to this Act.
Section 105. Protections and Responsibilities of Persons Joined in Civil Union.

(a) Partners joined in a civil union shall have all the same protections, benefits, and responsibilities under law, whether they derive from statute, administrative or court rule, policy, common law or any other source of civil or criminal law, as are granted to spouses in a marriage.

(b) Partners joined in a civil union shall be included in any definition or use of the terms "spouse", "family", "immediate family", "dependent", "next of kin", "husband", "wife", "out of wedlock", and other terms that denote the spousal relationship, as those terms are used throughout the law. The term "marriage" as it is used throughout the law, whether in statutes, administrative or court rule, policy, common law or any other source of civil or criminal law, without limitation shall be read, interpreted, and understood to include marriage and civil union.

(c) This Act shall be liberally construed and applied to promote its underlying purpose, which is to provide both eligible same-sex and opposite-sex couples the opportunity to obtain the same protections, benefits, and responsibilities afforded by the laws of Illinois to parties to a marriage.

(d) Partners joined in a civil union are responsible for the support of one another to the same degree and in the same manner as prescribed under law for parties to a marriage. The
whole of this State's law concerning domestic relations, probate, and family law applies equally to parties in a civil union as it does to parties to marriage. The dissolution of a civil union shall follow the same procedures and be subject to the same substantive rights and obligations that are involved in the dissolution of marriage. The laws of domestic relationships, including declaration of invalidity, premarital and antenuptial agreements, legal separation, dissolution, child custody and support, evaluation of a child's best interest, child visitation, disposition of property and maintenance, post-relationship spousal support, and attorney's fees, applies to partners in a civil union. Partners in a civil union may modify the terms, conditions, or effects of their civil union in the same manner and to the same extent as married persons who execute an antenuptial agreement or other agreement recognized and enforceable under the law, setting forth particular understandings with respect to their union. All contracts made between persons in contemplation of a civil union shall remain in full force after such civil union takes place. The rights of partners in a civil union with respect to a child of whom either becomes a parent during the term of the civil union are the same as those of parties to a marriage with respect to a child of whom either spouse becomes the parent during the marriage.

(e) The following is a nonexclusive list of legal protections, benefits, and responsibilities of parties to a
law and procedure relating to title, tenure, descent, and
distribution in estate succession, and relating to transfer by
purchase, legacy, or descent of real or personal property
as provided in Chapter 755 of the Illinois Compiled Statutes;

(2) Probate law and procedure as provided in the
Probate Act of 1975;

(3) Trust and fiduciaries laws and procedures as
provided in Chapter 760 of the Illinois Compiled Statutes;

(4) Property law and procedures as provided in Chapter
765 of the Illinois Compiled Statutes;

(5) Causes of actions related to or dependent upon
spousal status, including actions for wrongful death,
emotional distress, loss of consortium or other torts, or
actions under contract related to or dependent upon spousal
status;

(6) The rights of spouses to be sued and sue each other
under the Rights of Married Persons Act;

(7) Financial assistance available to family members
of innocent victims under the Crime Victim Compensation
Act;

(8) Antenuptial and premarital agreements as provided
in the Illinois Uniform Pre marital Agreement Act and
Section 503 of the Illinois Marriage and Dissolution of
Marriage Act;

(9) Declaration of invalidity, legal separation, and dissolution law and procedures as provided in the Illinois Marriage and Dissolution of Marriage Act;

(10) Family law and procedures as provided in Chapter 750 of the Illinois Compiled Statutes;

(11) Adoption law and procedures under the Adoption Act;

(12) Prohibitions against discrimination based upon marital status under the Illinois Human Rights Act;

(13) Group insurance for state and municipal employees under the State Employees Group Insurance Act of 1971;

(14) Accident and health insurance protections tied to former spouses, dependents, and immediate family provided in Article XX of the Illinois Insurance Code;

(15) Veteran benefits as provided in Chapter 330 of the Illinois Compiled Statutes and the Department of Veterans Affairs Act;

(16) Workers' compensation as provided by the Workers' Compensation Act and the Workers' Occupational Diseases Act;

(17) Assignment of wages as provided in the Illinois Wage Assignment Act;

(18) Public assistance benefits under State law;

(19) Taxes imposed by and tax deductions based on marital status under State or municipal tax law;
(20) Surrogate decision making for medical treatment under the Health Care Surrogate Act;
(21) Order of protection law and procedures as provided under the Illinois Domestic Violence Act of 1986;
(22) Domestic violence protections pursuant to the Illinois Domestic Violence Act of 1986 and other domestic violence programs;
(23) Address confidentiality law and procedures as provided in the Address Confidentiality for Victims of Domestic Violence Act;
(24) Spousal surname changes procedures provided under Illinois Marriage and Dissolution of Marriage Act;
(25) Marital communications privilege afforded under Section 115-16 of the Code of Criminal Procedure of 1963;
(26) Applications for and assistance by one's spouse in casting a ballot as provided under the Election Code; and
(27) Tuition assistance and grants afforded surviving spouses and children for educational purposes under State law.
(f) To the extent any of the laws of Illinois adopt, refer to, or rely upon provisions of federal law as applicable to this State, partners in a civil union shall be treated under the law of this State as if federal law recognized a civil union in the same manner as the law of this State.

Section 106. Requisites of a Valid Civil Union. Two persons
may form a civil union in Illinois if they:

   (1) are not related by adoption or blood in any manner
   that would bar a civil union under Section 212 of this Act;
   (2) are not in another civil union or marriage with any
   other living person;
   (3) are not under 18 years of age.

Section 107. Application of Civil Practice Law.

(a) The Civil Practice Law applies to all proceedings under
this Act, except as otherwise provided in this Act.

(b) A proceeding for dissolution of civil union, legal
separation, or declaration of invalidity of civil union shall
be entitled "In re the Civil Union of . . . and . . ." as
applicable. A custody or support proceeding shall be entitled
"In re the (Custody) (Support) of . . .".

(c) 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.

PART II. CIVIL UNIONS

Section 201. Formalities. Notwithstanding any other
provision of state law, a civil union between 2 persons of
either the same sex or the opposite sex licensed, officiated,
and registered as provided in this Act is valid in this State.
Section 202. Civil Union License and Civil Union Certificate.

(a) The Director of Public Health shall prescribe the form for an application for a civil union license, which shall include:

(1) name, sex, occupation, address, social security number, date and place of birth of each party to the proposed civil union;

(2) if either party was previously part of a civil union or a marriage, his or her name, and the date, place and court in which the civil union or marriage was dissolved or declared invalid or the date and place of the death of the former partner to a civil union or the former partner to a marriage;

(3) name and address of the parents or guardian of each party; and

(4) whether the parties are related to each other and, if so, their relationship.

(b) The Director of Public Health shall prescribe the forms for the civil union license and the civil union certificate.

Section 203. Civil Union License. When a civil union application has been completed and signed by both parties to a prospective civil union and both parties have appeared before the county clerk and the civil union license fee has been paid,
the county clerk shall issue a civil union license and a civil union certificate form upon being furnished:

(1) satisfactory proof that each party to the civil union will have attained the age of 18 years at the time the civil union license is effective;

(2) satisfactory proof that the civil union is not prohibited; and

(3) an affidavit or record as prescribed in subparagraph (1) of Section 205 of this Act or a court order as prescribed in subparagraph (2) of Section 205 of this Act, if applicable. Nothing in this Act shall be construed to prevent a couple who have entered into a civil union to reaffirm their commitment to one another if a new license is obtained and the civil union properly reported.

Section 204. Medical Information Brochures. With each civil union license, the county clerk shall provide a pamphlet describing the causes and effects of fetal alcohol syndrome. The county clerk shall also distribute free of charge, to all persons applying for a civil union license, a brochure prepared by the Department of Public Health concerning sexually transmitted diseases and inherited metabolic diseases.

Section 205. Exceptions.

(1) Irrespective of the results of laboratory tests and clinical examination relative to sexually transmitted
diseases, the clerks of the respective counties shall issue a civil union license to parties to a proposed civil union (a) when a woman is pregnant at the time of such application, or (b) when a woman has, prior to the time of application, given birth to a child born out of wedlock or civil union which is living at the time of such application and the man making such application makes affidavit that he is the father of such child born out of wedlock or civil union. The county clerk shall, in lieu of the health certificate required hereunder, accept, as the case may be, either an affidavit on a form prescribed by the State Department of Public Health, signed by a physician duly licensed in this State, stating that the woman is pregnant, or a copy of the birth record of the child born out of wedlock or civil union, if one is available in this State, or if such birth record is not available, an affidavit signed by the woman that she is the mother of such child.

(2) Any judge of the circuit court within the county in which the license is to be issued is authorized and empowered on joint application by both applicants for a civil union license to waive the requirements as to medical examination, laboratory tests, and certificates, except the requirements of paragraph (4) of subsection (a) of Section 212 of this Act and to authorize the county clerk to issue the license if all other requirements of law have been complied with and the judge is satisfied, by affidavit, or other proof, that the examination or tests are contrary to the tenets or practices of the
religion, creed of which the applicant is an adherent, and that the public health and welfare will not be injuriously affected thereby.

Section 206. Records. Any health certificate filed with the county clerk, or any certificate, affidavit, or record accepted in lieu thereof, shall be retained in the files of the office for one year after the civil union license is issued and shall thereafter be destroyed by the county clerk.

Section 207. Effective Date of License. A civil union license becomes effective in the county where it is issued one day after the date of issuance, unless the court orders that the civil union license is effective when issued, and expires 60 days after it becomes effective.

Section 208. (Blank).

Section 209. Officiation and Registration.

(a) A civil union may be officiated 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 officiation 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. Either the person officiating the civil union,
or, if no individual acting alone officiated the civil union,
both parties to the civil union, shall complete the civil union
certificate form and forward it to the county clerk within 10
days after such civil union is officiated.

(b) Nothing in this Act shall be construed as to require
any religious body, Indian Nation, Indian Tribe, Native Group,
or officiant thereof to solemnize or officiate a civil union or
to prohibit any religious body, Indian Nation, Indian Tribe,
Native Group, or officiant thereof from solemnizing or
officiating a civil union.

(c) The officiation of the civil union is not invalidated
by the fact that the person officiating the civil union was not
legally qualified to officiate it, if either party to the civil
union believed him or her to be so qualified.

Section 210. Registration of Civil Union Certificate. Upon
receipt of the civil union certificate, the county clerk shall
register the civil union. Within 45 days after the close of the
month in which a civil union is registered, the county clerk
shall make to the Department of Public Health a return of such
civil union. Such return shall be made on a form furnished by
the Department of Public Health and shall substantially consist
of the following items:

(1) A copy of the civil union license application
signed and attested to by the applicants, except that in
any county in which the information provided in a civil
union license application is entered into a computer, the
county clerk may submit a computer copy of such information
without the signatures and attestations of the applicants.

(2) The date and place of the civil union.

(3) The civil union license number.

A copy of the civil union registration 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 211. Reporting. In transmitting the required
returns, the county clerk shall make a report to the Department
of Public Health stating the total number of civil union
licenses issued during the month for which returns are made,
and the number of civil union certificates registered during
the month.
Section 212. Prohibited Civil Unions.

(a) The following civil unions are prohibited:

(1) a civil union entered into prior to the dissolution of an earlier marriage of one of the parties or the dissolution of an earlier civil union of one of the parties;

(2) a civil union between an ancestor and a descendant or between siblings, whether the relationship is by the half or the whole blood or by adoption;

(3) a civil union between an uncle and a niece, between an aunt and a nephew, between an uncle and a nephew, and between an aunt and a niece, whether the relationship is by the half or the whole blood;

(4) a civil union between cousins of the first degree; however, a civil union between first cousins is not prohibited if:

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

(ii) either party, at the time of application for a civil union license, presents for filing with the county clerk of the county in which the civil union is to be officiated, a certificate signed by a licensed physician stating that the party to the proposed civil union is permanently and irreversibly sterile.

(b) Parties to a civil union prohibited under subsection (a) of this Section who cohabit after the removal of the impediment are lawfully in a civil union as of the date of the
removal of the impediment.

(c) Children born or adopted of a prohibited civil union are the lawful children of the parties.

Section 213. Reciprocity. A civil union entered into outside this State, which is valid under the laws of the jurisdiction under which the civil union was created, is valid in this State.

PART III. AMENDATORY PROVISIONS

Section 301. The Illinois Marriage and Dissolution of Marriage Act is amended by changing Sections 212 and 702 as follows:

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

Sec. 212. Prohibited Marriages.

(a) The following marriages are prohibited:

(1) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties or an earlier civil union of one of the parties;

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

(3) a marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the
half or the whole blood;

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

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

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

(5) a marriage between 2 individuals of the same sex.

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

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

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

(750 ILCS 5/702) (from Ch. 40, par. 702)

Sec. 702. Maintenance in Case of Bigamy.) When a dissolution of marriage is granted to a person who shall, in good faith, have intermarried with a person having at the time of such marriage, another spouse or spouses or partner in a civil union or partners in a civil union living, the court may,
nevertheless, allow the petitioner maintenance in the same manner as in other cases of dissolution of marriage; but no such allowance shall be made as will be inconsistent with the rights of such other spouse or spouses or partner in a civil union or partners in a civil union, which shall first be ascertained by the court before the granting of such maintenance.

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

Section 302. The Illinois Human Rights Act is amended by changing Section 1-103 as follows:

(775 ILCS 5/1-103) (from Ch. 68, par. 1-103)
Sec. 1-103. General Definitions. When used in this Act, unless the context requires otherwise, the term:

(A) Age. "Age" means the chronological age of a person who is at least 40 years old, except with regard to any practice described in Section 2-102, insofar as that practice concerns training or apprenticeship programs. In the case of training or apprenticeship programs, for the purposes of Section 2-102, "age" means the chronological age of a person who is 18 but not yet 40 years old.

(B) Aggrieved Party. "Aggrieved party" means a person who is alleged or proved to have been injured by a civil rights violation or believes he or she will be injured by a civil rights violation under Article 3 that is about to occur.
(C) Charge. "Charge" means an allegation filed with the Department by an aggrieved party or initiated by the Department under its authority.

(D) Civil Rights Violation. "Civil rights violation" includes and shall be limited to only those specific acts set forth in Sections 2-102, 2-103, 2-105, 3-102, 3-103, 3-104, 3-104.1, 3-105, 4-102, 4-103, 5-102, 5A-102 and 6-101 of this Act.


(F) Complaint. "Complaint" means the formal pleading filed by the Department with the Commission following an investigation and finding of substantial evidence of a civil rights violation.

(G) Complainant. "Complainant" means a person including the Department who files a charge of civil rights violation with the Department or the Commission.

(H) Department. "Department" means the Department of Human Rights created by this Act.

(I) Handicap. "Handicap" means a determinable physical or mental characteristic of a person, including, but not limited to, a determinable physical characteristic which necessitates the person's use of a guide, hearing or support dog, the history of such characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or
functional disorder and which characteristic:

(1) For purposes of Article 2 is unrelated to the person's ability to perform the duties of a particular job or position and, pursuant to Section 2-104 of this Act, a person's illegal use of drugs or alcohol is not a handicap;

(2) For purposes of Article 3, is unrelated to the person's ability to acquire, rent or maintain a housing accommodation;

(3) For purposes of Article 4, is unrelated to a person's ability to repay;

(4) For purposes of Article 5, is unrelated to a person's ability to utilize and benefit from a place of public accommodation.

(J) Marital Status. "Marital status" means the legal status of being married, partnered in a civil union, single, separated, divorced or widowed.

(J-1) Military Status. "Military status" means a person's status on active duty in or status as a veteran of the armed forces of the United States, status as a current member or veteran of any reserve component of the armed forces of the United States, including the United States Army Reserve, United States Marine Corps Reserve, United States Navy Reserve, United States Air Force Reserve, and United States Coast Guard Reserve, or status as a current member or veteran of the Illinois Army National Guard or Illinois Air National Guard.

(K) National Origin. "National origin" means the place in
which a person or one of his or her ancestors was born.

(L) Person. "Person" includes one or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, or union labor associations, corporations, the State of Illinois and its instrumentalities, political subdivisions, units of local government, legal representatives, trustees in bankruptcy or receivers.

(M) Public Contract. "Public contract" includes every contract to which the State, any of its political subdivisions or any municipal corporation is a party.

(N) Religion. "Religion" includes all aspects of religious observance and practice, as well as belief, except that with respect to employers, for the purposes of Article 2, "religion" has the meaning ascribed to it in paragraph (F) of Section 2-101.

(O) Sex. "Sex" means the status of being male or female.

(O-1) Sexual orientation. "Sexual orientation" means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. "Sexual orientation" does not include a physical or sexual attraction to a minor by an adult.

(P) Unfavorable Military Discharge. "Unfavorable military discharge" includes discharges from the Armed Forces of the United States, their Reserve components or any National Guard
or Naval Militia which are classified as RE-3 or the equivalent thereof, but does not include those characterized as RE-4 or "Dishonorable".

(Q) Unlawful Discrimination. "Unlawful discrimination" means discrimination against a person because of his or her race, color, religion, national origin, ancestry, age, sex, marital status, handicap, military status, sexual orientation, or unfavorable discharge from military service as those terms are defined in this Section.

(Source: P.A. 93-941, eff. 8-16-04; 93-1078, eff. 1-1-06; 94-803, eff. 5-26-06.)

PART IV. MISCELLANEOUS

Section 401. Construction. This Act and the rules now or hereafter applicable thereto shall be liberally construed to secure to eligible couples the option of a legal status with all the attributes and effects, protections, benefits, and responsibilities of marriage. Partners in a civil union shall have all the same protections, benefits, and responsibilities under State law, whether derived from statute, administrative or court rule, policy, common law, or any other source of civil or criminal law, as granted to spouses in marriage. Further, this Act is intended to extend to partners in a civil union the protections, benefits, and responsibilities that flow from marriage.
Section 402. Severability. If any part of this Act or its application to any person or circumstance is adjudged invalid, such adjudication or application shall not affect the validity of this Act as a whole or of any other part.

Section 403. Effective date. This Act takes effect on January 1, 2008.