

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 10. Equal access to marriage.

18 (a) All laws of this State applicable to marriage, whether
19 they derive from statute, administrative or court rule, policy,
20 common law, or any other source of civil or criminal law, shall
21 apply equally to marriages of same-sex and different-sex
22 couples and their children.

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

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

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

20 Section 15. Religious freedom. Nothing in this Act shall
21 interfere with or regulate the religious practice of any
22 religious denomination or Indian Nation or Tribe or Native
23 Group. Any religious denomination or Indian Nation or Tribe or
24 Native Group is free to choose which marriages it will
25 solemnize or celebrate.

1 Section 20. Severability. If any part of this Act or its
2 application to any person or circumstance is adjudged invalid,
3 such adjudication or application shall not affect the validity
4 of this Act as a whole or of any other part.

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

8 (750 ILCS 5/201) (from Ch. 40, par. 201)

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

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

13 (750 ILCS 5/209) (from Ch. 40, par. 209)

14 Sec. 209. Solemnization and Registration.)

15 (a) A marriage may be solemnized by a judge of a court of
16 record, by a retired judge of a court of record, unless the
17 retired judge was removed from office by the Judicial Inquiry
18 Board, except that a retired judge shall not receive any
19 compensation from the State, a county or any unit of local
20 government in return for the solemnization of a marriage and
21 there shall be no effect upon any pension benefits conferred by
22 the Judges Retirement System of Illinois, by a judge of the

1 Court of Claims, by a county clerk in counties having 2,000,000
2 or more inhabitants, by a public official whose powers include
3 solemnization of marriages, or in accordance with the
4 prescriptions of any religious denomination, Indian Nation or
5 Tribe or Native Group, provided that when such prescriptions
6 require an officiant, the officiant be in good standing with
7 his or her religious denomination, Indian Nation or Tribe or
8 Native Group. Either the person solemnizing the marriage, or,
9 if no individual acting alone solemnized the marriage, both
10 parties to the marriage, shall complete the marriage
11 certificate form and forward it to the county clerk within 10
12 days after such marriage is solemnized.

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

1 this Act shall not create or be the basis for any civil,
2 administrative, or criminal penalty, claim, or cause of action.

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

24 (b) The solemnization of the marriage is not invalidated by
25 the fact that the person solemnizing the marriage was not
26 legally qualified to solemnize it, if either party to the

1 marriage believed him or her to be so qualified or by the fact
2 that the marriage was inadvertently solemnized in a county in
3 Illinois other than the county where the license was issued.

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

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

6 Sec. 212. Prohibited Marriages.

7 (a) The following marriages are prohibited:

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

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

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

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

1 (i) both parties are 50 years of age or older; or
2 (ii) either party, at the time of application for a
3 marriage license, presents for filing with the county
4 clerk of the county in which the marriage is to be
5 solemnized, a certificate signed by a licensed
6 physician stating that the party to the proposed
7 marriage is permanently and irreversibly sterile;

8 (5) (blank). ~~a marriage between 2 individuals of the~~
9 ~~same sex.~~

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

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

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

17 (750 ILCS 5/220 new)

18 Sec. 220. Consent to jurisdiction. Members of a same-sex
19 couple who enter into a marriage in this State consent to the
20 jurisdiction of the courts of this State for the purpose of any
21 action relating to the marriage, even if one or both parties
22 cease to reside in this State. A court shall enter a judgment
23 of dissolution of marriage if at the time the action is
24 commenced, it meets the grounds for dissolution of marriage set
25 forth in this Act.

1 (750 ILCS 5/213.1 rep.)

2 Section 910. The Illinois Marriage and Dissolution of
3 Marriage Act is amended by repealing Section 213.1.

4 Section 915. The Illinois Religious Freedom Protection and
5 Civil Union Act is amended by changing Section 60 and by adding
6 Section 65 as follows:

7 (750 ILCS 75/60)

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

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

1 (750 ILCS 75/65 new)

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

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

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

24 (c) When parties to a civil union have married, or when
25 their civil union has been converted to a marriage under this
26 Section, the parties, as of the date stated on the marriage

1 certificate, shall no longer be considered in a civil union,
2 but rather shall be in a legal marriage.

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

5 Section 999. Effective date. This Act takes effect 30 days
6 after becoming law.