



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB0110

Introduced 1/10/2013, by Rep. Greg Harris

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Religious Freedom and Marriage Fairness Act. Contains provisions regarding legislative purpose, rules of construction, and severability. Provides that: all laws of this State applicable to marriage apply equally to marriages of same-sex and different-sex couples and their children; parties to a marriage and their children, regardless of whether the marriage is of a same-sex or different-sex couple, have the same benefits, protections, and responsibilities under law; parties to a marriage are included in any definition or use of terms such as "spouse", "family", "immediate family", "dependent", "next of kin", "wife", "husband", "bride", "groom", "wedlock", and other terms that refer to or denote the spousal relationship, as those terms are used throughout the law, regardless of whether the parties to a marriage are of the same sex or different sexes; and, to the extent that laws of this State adopt, refer to, or rely upon provisions of federal law as applicable to this State, parties to a marriage of the same sex and their children shall be treated under the laws of this State as if federal law recognized the marriages of same-sex couples in the same manner as the laws of this State. Amends the Illinois Marriage and Dissolution of Marriage Act. Makes changes concerning: parties who may marry; solemnization; use of a parish hall or other religious facility for solemnization or celebration of a marriage; prohibited marriages; and jurisdiction. Amends the Illinois Religious Freedom Protection and Civil Union Act to make changes and additions regarding recognition of marriages and to authorize the voluntary conversion of a civil union to a marriage under specified circumstances. Contains severability provisions. Effective 30 days after becoming law.

LRB098 04195 HEP 34219 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 Section 10. Equal access to marriage.

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

17 (b) Parties to a marriage and their children, regardless  
18 of whether the marriage consists of a same-sex or different-sex  
19 couple, shall have all the same benefits, protections, and  
20 responsibilities under law, whether they derive from statute,  
21 administrative or court rule, policy, common law, or any other  
22 source of civil or criminal law.

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

8 (d) To the extent the law of this State adopts, refers to,  
9 or relies upon provisions of federal law as applicable to this  
10 State, parties to a marriage of the same sex and their children  
11 shall be treated under the law of this State as if federal law  
12 recognizes the marriages of same-sex couples in the same manner  
13 as the law of this State.

14 Section 15. Severability. If any part of this Act or its  
15 application to any person or circumstance is adjudged invalid,  
16 such adjudication or application shall not affect the validity  
17 of this Act as a whole or of any other part.

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

21 (750 ILCS 5/201) (from Ch. 40, par. 201)

22 Sec. 201. Formalities.) A marriage between 2 persons ~~a man~~  
23 ~~and a woman~~ licensed, solemnized and registered as provided in

1 this Act is valid in this State.

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

3 (750 ILCS 5/209) (from Ch. 40, par. 209)

4 Sec. 209. Solemnization and Registration.)

5 (a) A marriage may be solemnized by a judge of a court of  
6 record, by a retired judge of a court of record, unless the  
7 retired judge was removed from office by the Judicial Inquiry  
8 Board, except that a retired judge shall not receive any  
9 compensation from the State, a county or any unit of local  
10 government in return for the solemnization of a marriage and  
11 there shall be no effect upon any pension benefits conferred by  
12 the Judges Retirement System of Illinois, by a judge of the  
13 Court of Claims, by a county clerk in counties having 2,000,000  
14 or more inhabitants, by a public official whose powers include  
15 solemnization of marriages, or in accordance with the  
16 prescriptions of any religious denomination, Indian Nation or  
17 Tribe or Native Group, provided that when such prescriptions  
18 require an officiant, the officiant be in good standing with  
19 his or her religious denomination, Indian Nation or Tribe or  
20 Native Group. Either the person solemnizing the marriage, or,  
21 if no individual acting alone solemnized the marriage, both  
22 parties to the marriage, shall complete the marriage  
23 certificate form and forward it to the county clerk within 10  
24 days after such marriage is solemnized.

25 (a-5) Nothing in this Act shall be construed to require any

1 religious denomination or Indian Nation or Tribe or Native  
2 Group, or any minister, clergy, or officiant acting as a  
3 representative of a religious denomination or Indian Nation or  
4 Tribe or Native Group, to solemnize any marriage. Instead, any  
5 religious denomination or Indian Nation or Tribe or Native  
6 Group, or any minister, clergy, or officiant acting as a  
7 representative of a religious denomination or Indian Nation or  
8 Tribe or Native Group is free to choose which marriages it will  
9 solemnize. No refusal by a religious denomination or Indian  
10 Nation or Tribe or Native Group, or any minister, clergy, or  
11 officiant acting as a representative of a religious  
12 denomination or Indian Nation or Tribe or Native Group to  
13 solemnize any marriage under this Act shall create or be the  
14 basis for any civil, administrative, or criminal penalty,  
15 claim, or cause of action.

16 (a-10)(1) For purposes of this subsection (a-10),  
17 "religious organization" is limited to churches, mosques,  
18 synagogues, temples, nondenominational ministries,  
19 interdenominational and ecumenical organizations, mission  
20 organizations, and other faith-based associations and  
21 societies whose principal purpose is the study, practice, or  
22 advancement of religion.

23 (2) Nothing in this Act shall be construed to require a  
24 religious organization as defined in paragraph (1) of this  
25 subsection (a-10) to make available a parish hall or other  
26 religious facility on the premises of a church, mosque,

1 synagogue, temple, or other house of worship for solemnization  
2 or celebration of a marriage that is in violation of the  
3 religious organization's religious beliefs, provided that:

4 (A) the religious facility is primarily used by members  
5 of the parish or congregation for worship and other  
6 religious purposes;

7 (B) for solemnization and celebration of marriages,  
8 the religious organization generally restricts use of the  
9 religious facility to its members and opens the facility  
10 only occasionally to non-members on an unpaid basis; and

11 (C) the religious organization does not make the  
12 religious facility available to the general public for  
13 rental or use for which a rental fee or other compensation  
14 is required or for which public funding or other public  
15 benefit is received.

16 (3) Nothing in this Section shall be interpreted to exempt  
17 the owner or operator of any religious facility from the  
18 requirements of the Illinois Human Rights Act if the religious  
19 facility is a place of public accommodation as defined in  
20 Section 5-101 of the Illinois Human Rights Act.

21 (4) Nothing in this Act shall be construed to prevent a  
22 religious organization as defined in paragraph (1) of this  
23 subsection (a-10) from limiting employment to individuals of  
24 the same religious faith or from making internal personnel  
25 decisions concerning the terms and conditions of employment for  
26 positions (A) that require a significant degree of religious

1 training and (B) whose primary duties are ministerial in  
2 nature, such as conducting worship services or providing  
3 religious instruction.

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

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

11 (750 ILCS 5/212) (from Ch. 40, par. 212)

12 Sec. 212. Prohibited Marriages.

13 (a) The following marriages are prohibited:

14 (1) a marriage entered into prior to the dissolution of  
15 an earlier marriage of one of the parties;

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

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

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

1 if:

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

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

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

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

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

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

18 (750 ILCS 5/220 new)

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



1 forth in this Act.

2 (750 ILCS 5/213.1 rep.)

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

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

8 (750 ILCS 75/60)

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

23 (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

1 Section, the parties, as of the date stated on the marriage  
2 certificate, shall no longer be considered in a civil union,  
3 but rather shall be in a legal marriage.

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

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

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 750 ILCS 5/201 from Ch. 40, par. 201

5 750 ILCS 5/209 from Ch. 40, par. 209

6 750 ILCS 5/212 from Ch. 40, par. 212

7 750 ILCS 5/220 new

8 750 ILCS 5/213.1 rep.

9 750 ILCS 75/60

10 750 ILCS 75/65 new