

**NO. 91. AN ACT RELATING TO CIVIL UNIONS (H.847)**

It is hereby enacted by the General Assembly of the State of Vermont:

**Sec. 1. LEGISLATIVE FINDINGS**

The General Assembly finds that:

(1) Civil marriage under Vermont's marriage statutes consists of a union between a man and a woman. This interpretation of the state's marriage laws was upheld by the Supreme Court in *Baker v. State*.

(2) Vermont's history as an independent republic and as a state is one of equal treatment and respect for all Vermonters. This tradition is embodied in the Common Benefits Clause of the Vermont Constitution, Chapter I, Article 7th.

(3) The state's interest in civil marriage is to encourage close and caring families, and to protect all family members from the economic and social consequences of abandonment and divorce, focusing on those who have been especially at risk.

(4) Legal recognition of civil marriage by the state is the primary and, in a number of instances, the exclusive source of numerous benefits, responsibilities and protections under the laws of the state for married persons and their children.

(5) Based on the state's tradition of equality under the law and strong families, for at least 25 years, Vermont Probate Courts have qualified gay and lesbian individuals as adoptive parents.

(6) Vermont was one of the first states to adopt comprehensive

legislation prohibiting discrimination on the basis of sexual orientation (Act No. 135 of 1992).

(7) The state has a strong interest in promoting stable and lasting families, including families based upon a same-sex couple.

(8) Without the legal protections, benefits and responsibilities associated with civil marriage, same-sex couples suffer numerous obstacles and hardships.

(9) Despite longstanding social and economic discrimination, many gay and lesbian Vermonters have formed lasting, committed, caring and faithful relationships with persons of their same sex. These couples live together, participate in their communities together, and some raise children and care for family members together, just as do couples who are married under Vermont law.

(10) While a system of civil unions does not bestow the status of civil marriage, it does satisfy the requirements of the Common Benefits Clause. Changes in the way significant legal relationships are established under the constitution should be approached carefully, combining respect for the community and cultural institutions most affected with a commitment to the constitutional rights involved. Granting benefits and protections to same-sex couples through a system of civil unions will provide due respect for tradition and long-standing social institutions, and will permit adjustment as unanticipated consequences or unmet needs arise.

(11) The constitutional principle of equality embodied in the Common Benefits Clause is compatible with the freedom of religious belief and worship guaranteed in Chapter I, Article 3rd of the state constitution. Extending the benefits and protections of marriage to same-sex couples through a system of civil unions preserves the fundamental constitutional right of each of the multitude of religious faiths in Vermont to choose freely and without state interference to whom to grant the religious status, sacrament or blessing of marriage under the rules, practices or traditions of such faith.

**Sec. 2. PURPOSE**

(a) The purpose of this act is to respond to the constitutional violation found by the Vermont Supreme Court in *Baker v. State*, and to provide eligible same-sex couples the opportunity to “obtain the same benefits and protections afforded by Vermont law to married opposite-sex couples” as required by Chapter I, Article 7th of the Vermont Constitution.

(b) This act also provides eligible blood-relatives and relatives related by adoption the opportunity to establish a reciprocal beneficiaries relationship so they may receive certain benefits and protections and be subject to certain responsibilities that are granted to spouses.

**Sec. 3. 15 V.S.A. chapter 23 is added to read:****CHAPTER 23. CIVIL UNIONS****§ 1201. DEFINITIONS**

As used in this chapter:

(1) “Certificate of civil union” means a document that certifies that the persons named on the certificate have established a civil union in this state in compliance with this chapter and 18 V.S.A. chapter 106.

(2) “Civil union” means that two eligible persons have established a relationship pursuant to this chapter, and may receive the benefits and protections and be subject to the responsibilities of spouses.

(3) “Commissioner” means the commissioner of health.

(4) “Marriage” means the legally recognized union of one man and one woman.

(5) “Party to a civil union” means a person who has established a civil union pursuant to this chapter and 18 V.S.A. chapter 106.

**§ 1202. REQUISITES OF A VALID CIVIL UNION**

For a civil union to be established in Vermont, it shall be necessary that the parties to a civil union satisfy all of the following criteria:

(1) Not be a party to another civil union or a marriage.

(2) Be of the same sex and therefore excluded from the marriage laws of this state.

(3) Meet the criteria and obligations set forth in 18 V.S.A. chapter 106.

**§ 1203. PERSON SHALL NOT ENTER A CIVIL UNION WITH A  
RELATIVE**

(a) A woman shall not enter a civil union with her mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister or mother's sister.

(b) A man shall not enter a civil union with his father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother or mother's brother.

(c) A civil union between persons prohibited from entering a civil union in subsection (a) or (b) of this section is void.

**§ 1204. BENEFITS, PROTECTIONS AND RESPONSIBILITIES OF  
PARTIES TO A CIVIL UNION**

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

(b) A party to a civil union 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.

(c) Parties to a civil union shall be responsible for the support of one another to the same degree and in the same manner as prescribed under law for

married persons.

(d) The law of domestic relations, including annulment, separation and divorce, child custody and support, and property division and maintenance shall apply to parties to a civil union.

(e) The following is a nonexclusive list of legal benefits, protections and responsibilities of spouses, which shall apply in like manner to parties to a civil union:

(1) laws relating to title, tenure, descent and distribution, intestate succession, waiver of will, survivorship, or other incidents of the acquisition, ownership, or transfer, inter vivos or at death, of real or personal property, including eligibility to hold real and personal property as tenants by the entirety (parties to a civil union meet the common law unity of person qualification for purposes of a tenancy by the entirety);

(2) causes of action related to or dependent upon spousal status, including an action for wrongful death, emotional distress, loss of consortium, dramshop, or other torts or actions under contracts reciting, related to, or dependent upon spousal status;

(3) probate law and procedure, including nonprobate transfer;

(4) adoption law and procedure;

(5) group insurance for state employees under 3 V.S.A. § 631, and continuing care contracts under 8 V.S.A. § 8005;

(6) spouse abuse programs under 3 V.S.A. § 18;

- (7) prohibitions against discrimination based upon marital status;
- (8) victim's compensation rights under 13 V.S.A. § 5351;
- (9) workers' compensation benefits;
- (10) laws relating to emergency and nonemergency medical care and treatment, hospital visitation and notification, including the Patient's Bill of Rights under 18 V.S.A. chapter 42 and the Nursing Home Residents' Bill of Rights under 33 V.S.A. chapter 73;
- (11) terminal care documents under 18 V.S.A. chapter 111, and durable power of attorney for health care execution and revocation under 14 V.S.A. chapter 121;
- (12) family leave benefits under 21 V.S.A. chapter 5, subchapter 4A;
- (13) public assistance benefits under state law;
- (14) laws relating to taxes imposed by the state or a municipality other than estate taxes;
- (15) laws relating to immunity from compelled testimony and the marital communication privilege;
- (16) the homestead rights of a surviving spouse under 27 V.S.A. § 105 and homestead property tax allowance under 32 V.S.A. § 6062;
- (17) laws relating to loans to veterans under 8 V.S.A. § 1849;
- (18) the definition of family farmer under 10 V.S.A. § 272;
- (19) laws relating to the making, revoking and objecting to anatomical gifts by others under 18 V.S.A. § 5240;

- (20) state pay for military service under 20 V.S.A. § 1544;
- (21) application for absentee ballot under 17 V.S.A. § 2532;
- (22) family landowner rights to fish and hunt under 10 V.S.A. § 4253;
- (23) legal requirements for assignment of wages under 8 V.S.A. § 2235;

and

- (24) affirmance of relationship under 15 V.S.A. § 7.

(f) The rights of parties to a civil union, with respect to a child of whom either becomes the natural parent during the term of the civil union, shall be the same as those of a married couple, with respect to a child of whom either spouse becomes the natural parent during the marriage.

#### **§ 1205. MODIFICATION OF CIVIL UNION TERMS**

Parties to 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.

#### **§ 1206. DISSOLUTION OF CIVIL UNIONS**

The family court shall have jurisdiction over all proceedings relating to the dissolution of civil unions. The dissolution of civil unions shall follow the same procedures and be subject to the same substantive rights and obligations that are involved in the dissolution of marriage in accordance with chapter 11 of this title, including any residency requirements.

**§ 1207. COMMISSIONER OF HEALTH; DUTIES**

(a) The commissioner shall provide civil union license and certificate forms to all town and county clerks.

(b) The commissioner shall keep a record of all civil unions.

Sec. 4. 4 V.S.A. § 454 is amended to read:

**§ 454. JURISDICTION**

Notwithstanding any other provision of law to the contrary, the family court shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990. The family court shall also have exclusive jurisdiction to hear and dispose of any requests to modify or enforce any orders issued by the district or superior court relating to the following proceedings:

\* \* \*

(17) All proceedings relating to the dissolution of a civil union.

Sec. 5. 18 V.S.A. chapter 106 is added to read:

**CHAPTER 106. CIVIL UNION; RECORDS AND LICENSES****§ 5160. ISSUANCE OF CIVIL UNION LICENSE; CERTIFICATION;****RETURN OF CIVIL UNION CERTIFICATE**

(a) Upon application in a form prescribed by the department, a town clerk shall issue a civil union license in the form prescribed by the department, and shall enter thereon the names of the parties to the proposed civil union, fill out the form as far as practicable and retain a copy in the clerk's office. At least

one party to the proposed civil union shall sign the application attesting to the accuracy of the facts stated. The license shall be issued by the clerk of the town where either party resides or, if neither is a resident of the state, by any town clerk in the state.

(b) A civil union license shall be delivered by one of the parties to a proposed civil union, within 60 days from the date of issue, to a person authorized to certify civil unions by section 5164 of this title. If the proposed civil union is not certified within 60 days from the date of issue, the license shall become void. After a person has certified the civil union, he or she shall fill out that part of the form on the license provided for such use, sign and certify the civil union. Thereafter, the document shall be known as a civil union certificate.

(c) Within ten days of the certification, the person performing the certification shall return the civil union certificate to the office of the town clerk from which the license was issued. The town clerk shall retain and file the original according to sections 5007 and 5008 of this title.

(d) A town clerk who knowingly issues a civil union license upon application of a person residing in another town in the state, or a county clerk who knowingly issues a civil union license upon application of a person other than as provided in section 5005 of this title, or a clerk who issues such a license without first requiring the applicant to fill out, sign and make oath to the declaration contained therein as provided in section 5160 of this title, shall

be fined not more than \$50.00 nor less than \$20.00.

(e) A person making application to a clerk for a civil union license who makes a material misrepresentation in the declaration of intention shall be deemed guilty of perjury.

(f) A town clerk shall provide a person who applies for a civil union license with information prepared by the secretary of state that advises such person of the benefits, protections and responsibilities of a civil union and that Vermont residency may be required for dissolution of a civil union in Vermont.

#### **§ 5161. ISSUANCE OF LICENSE**

(a) A town clerk shall issue a civil union license to all applicants who have complied with the provisions of section 5160 of this title, and who are otherwise qualified under the laws of the state to apply for a civil union license.

(b) An assistant town clerk may perform the duties of a town clerk under this chapter.

#### **§ 5162. PROOF OF LEGAL QUALIFICATIONS OF PARTIES TO A CIVIL UNION; PENALTY**

(a) Before issuing a civil union license to an applicant, the town clerk shall be confident, through presentation of affidavits or other proof, that each party to the intended civil union meets the criteria set forth to enter into a civil union.

(b) Affidavits shall be in a form prescribed by the board, and shall be attached to and filed with the civil union certificate in the office of the clerk of

the town wherein the license was issued.

(c) A clerk who fails to comply with the provisions of this section, or who issues a civil union license with knowledge that either or both of the parties to a civil union have failed to comply with the requirements of the laws of this state, or a person who, having authority and having such knowledge, certifies such a civil union, shall be fined not more than \$100.00.

**§ 5163. RESTRICTIONS AS TO MINORS AND INCOMPETENT PERSONS**

(a) A clerk shall not issue a civil union license when either party to the intended civil union is:

- (1) under 18 years of age;
- (2) non compos mentis;
- (3) under guardianship, without the written consent of such guardian.

(b) A clerk who knowingly violates subsection (a) of this section shall be fined not more than \$20.00. A person who aids in procuring a civil union license by falsely pretending to be the guardian having authority to give consent to the civil union shall be fined not more than \$500.00.

**§ 5164. PERSONS AUTHORIZED TO CERTIFY CIVIL UNIONS**

Civil unions may be certified by a supreme court justice, a superior court judge, a district judge, a judge of probate, an assistant judge, a justice of the peace or by a member of the clergy residing in this state and ordained or licensed, or otherwise regularly authorized by the published laws or discipline

of the general conference, convention or other authority of his or her faith or denomination or by such a clergy person residing in an adjoining state or country, whose parish, church, temple, mosque or other religious organization lies wholly or in part in this state, or by a member of the clergy residing in some other state of the United States or in the Dominion of Canada, provided he or she has first secured from the probate court of the district within which the civil union is to be certified, a special authorization, authorizing him or her to certify the civil union if such probate judge determines that the circumstances make the special authorization desirable. Civil unions among the Friends or Quakers, the Christadelphian Ecclesia and the Baha'i Faith may be certified in the manner used in such societies.

**§ 5165. CIVIL UNION LICENSE REQUIRED FOR CERTIFICATION;  
FAILURE TO RETURN**

(a) Persons authorized by section 5164 of this title to certify civil unions shall require a civil union license of the parties before certifying the civil union. The license shall afford full immunity to the person who certifies the civil union.

(b) A person who certifies a civil union shall be fined not less than \$10.00, if such person:

- (1) certifies a civil union without first obtaining the license; or
- (2) fails to properly fill out the license and, within ten days from the date of the certification, return the license and certificate of civil union to the clerk's

office from which it was issued.

**§ 5166. CERTIFICATION BY UNAUTHORIZED PERSON;  
PENALTY; VALIDITY OF CIVIL UNIONS**

(a) An unauthorized person who knowingly undertakes to join others in a civil union shall be imprisoned not more than six months or fined not more than \$300.00 nor less than \$100.00, or both.

(b) A civil union certified before a person falsely professing to be a justice or a member of the clergy shall be valid, provided that the civil union is in other respects lawful, and that either of the parties to a civil union believed that he or she was lawfully joined in a civil union.

**§ 5167. EVIDENCE OF CIVIL UNION**

A copy of the record of the civil union received from the town or county clerk, the commissioner of health or the director of public records shall be presumptive evidence of the civil union in all courts.

**§ 5168. CORRECTION OF CIVIL UNION CERTIFICATE**

(a) Within six months after a civil union is certified, the town clerk may correct or complete a civil union certificate, upon application by a party to a civil union or by the person who certified the civil union. The town clerk shall certify that such correction or completion was made pursuant to this section and note the date. The town clerk may refuse an application for correction or completion; in which case, the applicant may petition the probate court for such correction or completion.

(b) After six months from the date a civil union is certified, a civil union certificate may only be corrected or amended pursuant to decree of the probate court in the district where the original certificate is filed.

(c) The probate court shall set a time for a hearing and, if the court deems necessary, give notice of the time and place by posting such information in the probate court office. After a hearing, the court shall make findings with respect to the correction of the civil union certificate as are supported by the evidence. The court shall issue a decree setting forth the facts as found, and transmit a certified copy of the decree to the supervisor of vital records registration. The supervisor of vital records registration shall transmit the same to the appropriate town clerk to amend the original or issue a new certificate. The words "Court Amended" shall be typed, written or stamped at the top of the new or amended certificate with the date of the decree and the name of the issuing court.

#### **§ 5169. DELAYED CERTIFICATES OF CIVIL UNION**

(a) Persons who were parties to a certified civil union ceremony in this state for whom no certificate of civil union was filed, as required by law, may petition the probate court of the district in which the civil union license was obtained to determine the facts, and to order the issuance of a delayed certificate of civil union.

(b) The probate court shall set a time for hearing on the petition and, if the court deems necessary, give notice of the time and place by posting such

information in the probate court office. After hearing proper and relevant evidence as may be presented, the court shall make findings with respect to the civil union as are supported by the evidence.

(c) The court shall issue a decree setting forth the facts as found, and transmit a certified copy of said facts to the supervisor of vital records registration.

(d) Where a delayed certificate is to be issued, the supervisor of vital records registration shall prepare a delayed certificate of civil union, and transmit it, with the decree, to the clerk of the town where the civil union license was issued. This delayed certificate shall have the word "Delayed" printed at the top, and shall certify that the certificate was ordered by a court pursuant to this chapter, with the date of the decree. The town clerk shall file the delayed certificate and, in accordance with the provisions of section 5010 of this title, furnish a copy to the department of health.

(e) Town clerks receiving new certificates in accordance with this section shall file and index them in the most recent book of civil unions, and also index them with civil unions occurring at the same time.

**Sec. 6. 18 V.S.A. § 5001 is amended to read:**

**§ 5001. VITAL RECORDS; FORMS OF CERTIFICATES**

Certificates of birth, marriage, civil union, divorce, death and fetal death shall be in form prescribed by the commissioner of health and distributed by the health department.

**Sec. 7. 18 V.S.A. § 5002 is amended to read:****§ 5002. RETURNS; TABLES**

The health commissioner shall prepare from the returns of births, marriages, civil unions, deaths, fetal deaths and divorces required by law to be transmitted to ~~him~~ the commissioner such tables and append thereto such recommendations as he or she deems proper, and during the month of July in each even year, shall cause the same to be published as directed by the board. ~~He~~ The commissioner shall file and preserve all such returns. The commissioner shall periodically transmit the original returns or photostatic or photographic copies to the director of public records who shall keep the returns, or photostatic or photographic copies of the returns, on file for use by the public. The commissioner and the director of public records shall each, independently of the other, have power to issue certified copies of such records.

**Sec. 8. 18 V.S.A. § 5004 is amended to read:****§ 5004. ~~COUNTY~~ FAMILY COURT CLERKS; DIVORCE RETURNS**

The ~~county~~ family court clerk shall send to the commissioner, before the tenth day of each month, a report of the number of divorces which became absolute during the preceding month, showing as to each the names of the parties, date of marriage or civil union, number of children, grounds for divorce and such other statistical information available from the ~~county~~ family court clerk's file as may be required by the commissioner.

**Sec. 9. 18 V.S.A. § 5005 is amended to read:****§ 5005. UNORGANIZED TOWNS AND GORES**

(a) The county clerk of a county wherein is situated an unorganized town or gore shall perform the same duties and be subject to the same penalties as town clerks in respect to licenses, certificates, records and returns of parties, both of whom reside in an unorganized town or gore in such county or where ~~the groom~~ one party to a marriage or a civil union so resides and the ~~bride~~ other party resides in an unorganized town or gore in another county or without the state ~~or where the bride resides in an unorganized town or gore in such county and the groom resides without the state.~~ The cost of binding such certificates shall be paid by the state.

\* \* \*

**Sec. 10. 18 V.S.A. § 5006 is amended to read:****§ 5006. VITAL RECORDS PUBLISHED IN TOWN REPORTS**

Town clerks annually may compile and the auditors may publish in the annual town report a transcript of the record of births, marriages, civil unions and deaths recorded during the preceding calendar year.

Sec. 11. 18 V.S.A. § 5007 is amended to read:

**§ 5007. PRESERVATION OF DATA**

A town clerk shall receive, number and file for record certificates of births, marriages, civil unions and deaths, and shall preserve such certificates together with the burial-transit and removal permits returned to ~~him~~ the clerk, in a

fireproof vault or safe, as provided by section 1178 of Title 24.

Sec. 12. 18 V.S.A. § 5008 is amended to read:

**§ 5008. TOWN CLERK; RECORDING AND INDEXING  
PROCEDURES**

A town clerk shall file for record and index in volumes all certificates and permits received in a manner prescribed by the public records director. Each volume or series shall contain an alphabetical index. Marriage certificates shall be filed for record in one volume or series, civil unions in another, birth certificates in another, and death certificates and burial-transit and removal permits in another. However, in a town having less than ~~five hundred~~ 500 inhabitants, the town clerk may cause marriage, civil union, birth and death certificates, and burial-transit and removal permits to be filed for record in one volume, provided that none of such volumes shall contain more than ~~two hundred and fifty~~ 250 certificates and permits. All volumes shall be maintained in the town clerk's office as permanent records.

Sec. 13. 18 V.S.A. § 5009 is amended to read:

**§ 5009. NONRESIDENTS; CERTIFIED COPIES**

On the first day of each month, ~~he~~ the town clerk shall make a certified copy of each original or corrected certificate of birth, marriage, civil union and death filed in ~~his~~ the clerk's office during the preceding month, whenever the parents of a child born were, or a ~~bride or a groom~~ party to a marriage or a civil union or a deceased person was, a resident in any other Vermont town at the

time of such birth, marriage, civil union or death, and shall transmit such certified copy to the clerk of such other Vermont town, who shall file the same.

**Sec. 14. 18 V.S.A. § 5010 is amended to read:**

**§ 5010. REPORT OF STATISTICS**

The clerk in each town of over 5,000 population or in a town where a general hospital as defined in section 1902(a)(1) of this title, is located, shall each week transmit to the supervisor of vital records registration copies, duly certified, of each birth, death ~~and~~, marriage and civil union certificate filed in the town in the preceding week. In all other towns, the clerk shall transmit such copies of birth, death ~~and~~, marriage and civil union certificates received during the preceding month on or before the tenth day of each succeeding month.

**Sec. 15. 18 V.S.A. § 5011 is amended to read:**

**§ 5011. PENALTY**

A town clerk who fails to transmit such copies of birth, marriage, civil union and death certificates as provided in section 5010 of this title shall be fined not more than \$100.00.

**Sec. 16. 18 V.S.A. § 5012 is amended to read:**

**§ 5012. TOWN CLERK TO PROVIDE GENERAL INDEX;  
MARRIAGES AND CIVIL UNIONS**

Except as provided by section 1153 of Title 24, town and county clerks

shall prepare and keep a general index to the marriage and civil union records, in alphabetical order and in the following ~~form~~ forms, respectively:

Book	Page	Groom to	Date	Book	Page	Bride to	Date
1	1	Bride		1	1	Groom	
		A. to B.				B. to A.	

Book	Page	Party to Party	Date	Book	Page	Party to Party	Date
1	1	A. to B.		1	1	B. to A.	

Sec. 17. 8 V.S.A. § 4724(7)(E) is added to read:

(E) Making or permitting unfair discrimination between married couples and parties to a civil union as defined under 15 V.S.A. § 1201, with regard to the offering of insurance benefits to a couple, a spouse, a party to a civil union, or their family. The commissioner shall adopt rules necessary to carry out the purposes of this subdivision. The rules shall ensure that insurance contracts and policies offered to married couples, spouses, and families are also made available to parties to a civil union and their families. The commissioner may adopt by order standards and a process to bring the forms currently on file and approved by the department into compliance with Vermont law. The standards and process may differ from the provisions contained in chapter 101, subchapter 6 and sections 4062, 4201, 4515a, 4587, 4685, 4687, 4688, 4985, 5104 and 8005 of this title where, in the

commissioner's opinion, the provisions regarding filing and approval of forms are not desirable or necessary to effectuate the purposes of this section.

**Sec. 18. 8 V.S.A. § 4063a is added to read:**

**§ 4063a. COVERAGE FOR CIVIL UNIONS**

(a) As used in this section:

(1) "Dependent coverage" means family coverage or coverage for one or more persons.

(2) "Party to a civil union" is defined for purposes of this section as under 15 V.S.A. § 1201.

(3) "Insurer" shall mean a health insurer as defined in 18 V.S.A. § 9402(7).

(b) Notwithstanding any law to the contrary, insurers shall provide dependent coverage to parties to a civil union that is equivalent to that provided to married insureds. An individual or group health insurance policy which provides coverage for a spouse or family member of the insured shall also provide the equivalent coverage for a party to a civil union.

Sec. 19. 32 V.S.A. § 1712 is amended to read:

**§ 1712. TOWN CLERKS**

Town clerks shall receive the following fees in the matter of vital registration:

(1) For issuing and recording a marriage or civil union license, \$20.00 to be paid by the applicant, \$5.00 of which sum shall be retained by the town

clerk as a fee and \$15.00 of which sum shall be paid by the town clerk to the state treasurer in a return filed quarterly upon forms furnished by the state treasurer and specifying all fees received by him or her during the quarter. Such quarterly period shall be as of the first day of January, April, July and October.

(2) \$1.00 for other copies made under the provisions of section 5009 of Title 18 to be paid by the town;

(3) \$2.00 for each birth certificate completed or corrected under the provisions of sections 449 and 816 of Title 15 and sections 5073, 5075-5078 of Title 18, for the correction of each marriage certificate under the provisions of section 816 of Title 15, and section 5150 of Title 18, for the correction or completion of each civil union certificate under the provisions of section 5168 of Title 18, and for each death certificate corrected under the provisions of section 5202a of Title 18, to be paid by the town;

(4) \$1.00 for each certificate of facts relating to births, deaths, civil unions and marriages, transmitted to the commissioner of health in accordance with the provisions of section 5010 of Title 18. Such sum, together with the cost of binding the certificate shall be paid by the town;

(5) \$7.00 for each certified copy of birth, death, civil union or marriage certificate.

**Sec. 20. 32 V.S.A. § 3001 is amended to read:****§ 3001. ~~PERSON CONSTRUED~~ DEFINITIONS**

(a) ~~The word "person"~~ "Person" as used in Parts 2, 4 and 5 of this subtitle shall include a partnership, association, corporation or limited liability company.

(b) "Party to a civil union" is defined for purposes of Title 32 as under subdivision 1201(4) of Title 15.

(c) "Laws of the United States", "federal tax laws" and other references to United States tax law (other than federal estate and gift tax law) shall mean United States tax law applied as if federal law recognized a civil union in the same manner as Vermont law.

**Sec. 21. 32 V.S.A. § 5812 is added to read:****§ 5812. INCOME TAXATION OF PARTIES TO A CIVIL UNION**

This chapter shall apply to parties to a civil union and surviving parties to a civil union as if federal income tax law recognized a civil union in the same manner as Vermont law.

**Sec. 22. 32 V.S.A. § 7401(a) is amended to read:**

(a) This chapter is intended to conform the Vermont ~~inheritance~~ estate tax laws with the estate and gift tax provisions of the United States Internal Revenue Code, except as otherwise expressly provided, in order to simplify the taxpayer's filing of returns, reduce the taxpayer's accounting burdens, and facilitate the collection and administration of these taxes. Because federal

estate and gift tax law does not recognize a civil union in the same manner as Vermont law, and because a reduction in the Vermont estate tax liability for parties to a civil union based upon the federal marital deduction would not reduce the total estate tax liability, estates of parties to a civil union shall be subject to tax based on their actual federal estate tax liability and the federal credit for state death taxes, as provided under this chapter.

**Sec. 23. 32 V.S.A. § 3802(11) is amended to read:**

(11)(A) Real and personal property to the extent of \$10,000.00 of appraisal value, except any part used for business or rental, occupied as the established residence of and owned in fee simple by a veteran of any war or a veteran who has received an American Expeditionary Medal, his or her spouse, widow, widower or child, or jointly by any combination of them, if one or more of them are receiving disability compensation for at least ~~fifty~~ 50 percent disability, death compensation, dependence and indemnity compensation, or pension for disability paid through any military department or the veterans administration if, before May 1 of each year, there is filed with the listers:

~~(A)~~(i) a written application therefor; and

~~(B)~~(ii) a written statement from the military department or the veterans administration showing that the compensation or pension is being paid. Only one exemption may be allowed on a property.

(B) The terms used in this subdivision shall have the same definitions as in Title 38, U.S. Code § 101, except that:

(i) the definitions shall apply as if federal law recognized a civil union in the same manner as Vermont law;

(ii) such definitions shall not be construed to deny eligibility for exemption in the case where such exemption is based on retirement for disability and retirement pay is received from a federal agency other than the veterans administration; ; and

(iii) the age and marital status limits in section 101(4)(A) shall not apply.

An unremarried widow or widower of a previously qualified veteran shall be entitled to the exemption provided in this subdivision whether or not he or she is receiving government compensation or pension. By majority vote of those present and voting at an annual or special meeting warned for the purpose, a town may increase the veterans' exemption under this subsection to up to \$20,000.00 of appraisal value. Any increase in exemption shall take effect for the taxable year in which it was voted, and shall remain in effect for future taxable years until amended or repealed by a similar vote.

**Sec. 24. 15 V.S.A. § 4 is amended to read:**

**§ 4. MARRIAGE CONTRACTED WHILE ONE IN FORCE**

Marriages contracted while either party has ~~another wife or husband~~ a living spouse or a living party to a civil union shall be void.

**Sec. 25. 15 V.S.A. § 8 is added to read:****§ 8. MARRIAGE DEFINITION**

Marriage is the legally recognized union of one man and one woman.

**Sec. 26. 18 V.S.A. § 5131 is amended to read:****§ 5131. ISSUANCE OF MARRIAGE LICENSE; SOLEMNIZATION;  
RETURN OF MARRIAGE CERTIFICATE**

(a) Upon application in a form prescribed by the department, a town clerk shall issue to a person a marriage license in the form prescribed by the department and shall enter thereon the names of the parties to the proposed marriage, fill out the form as far as practicable and retain in ~~his~~ the clerk's office a copy thereof. At least one party to the proposed marriage shall sign the certifying application to the accuracy of the facts so stated. The license shall be issued by the clerk of the town where either the bride or groom resides or, if neither is a resident of the state, by ~~a~~ any town clerk in the ~~county where~~ ~~the marriage is to be solemnized~~ state.

\* \* \*

**Sec. 27. 18 V.S.A. § 5137 is amended to read:****§ 5137. ISSUANCE OF LICENSE**

(a) A town clerk shall issue a marriage license to all applicants who have complied with the provisions of section 5131 of this title and who are otherwise qualified under the laws of the state to apply for a license to marry and to contract for such marriage.

(b) An assistant town clerk may perform the duties of a town clerk under this chapter.

**Sec. 28. 18 V.S.A. § 5144 is amended to read:**

**§ 5144. PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGE**

Marriages may be solemnized by a supreme court justice, a superior court judge, a district judge, a judge of probate, an assistant judge or a justice of the peace or by a ~~minister of the gospel~~ member of the clergy residing in this state and ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference ~~or~~, convention or other authority of his or her faith or denomination or by such a ~~minister~~ clergy person residing in an adjoining state or country, whose parish, church, temple, mosque or other religious organization lies wholly or in part in this state, or by a ~~minister of the gospel~~ member of the clergy residing in some other state of the United States or in the Dominion of Canada ~~who is ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference or convention of his denomination~~, provided he or she has first secured from the probate court of the district within which ~~said~~ the marriage is to be solemnized a special authorization ~~to said nonresident minister~~, authorizing him or her to certify ~~said~~ the marriage if ~~it appear to said~~ such probate judge determines that the circumstances ~~seem to~~ make ~~such~~ the special authorization desirable. Marriage among the Friends or Quakers, the Christadelphian Ecclesia and the Baha'i Faith may be solemnized in the

manner heretofore used in such societies.

**Sec. 29. 15 V.S.A. chapter 25 is added to read:**

**CHAPTER 25. RECIPROCAL BENEFICIARIES**

**§ 1301. PURPOSE**

(a) The purpose of this chapter is to provide two persons who are blood-relatives or related by adoption the opportunity to establish a consensual reciprocal beneficiaries relationship so they may receive the benefits and protections and be subject to the responsibilities that are granted to spouses in the following specific areas:

(1) Hospital visitation and medical decision-making under 18 V.S.A.

§ 1853;

(2) Decision-making relating to anatomical gifts under 18 V.S.A.

§ 5240;

(3) Decision-making relating to disposition of remains under 18 V.S.A.

§ 5220;

(4) Durable power of attorney for health care under 14 V.S.A. § 3456

and terminal care documents under 18 V.S.A. § 5254;

(5) Patient's bill of rights under 18 V.S.A. chapter 42;

(6) Nursing home patient's bill of rights under 33 V.S.A. chapter 73;

(7) Abuse prevention under 15 V.S.A. chapter 21.

(b) This chapter shall not be construed to create any spousal benefits, protections or responsibilities for reciprocal beneficiaries not specifically

enumerated herein.

### **§ 1302. DEFINITIONS**

As used in this chapter:

(1) “Commissioner” means the commissioner of health.

(2) “Reciprocal beneficiary” means a person who has established a reciprocal beneficiaries relationship pursuant to this chapter.

(3) A “reciprocal beneficiaries relationship” means that two eligible persons have established such a relationship under this chapter, and may receive the benefits and protections and be subject to the responsibilities that are granted to spouses in specifically enumerated areas of law.

### **§ 1303. REQUISITES OF A VALID RECIPROCAL BENEFICIARIES RELATIONSHIP**

For a reciprocal beneficiaries relationship to be established in Vermont, it shall be necessary that the parties satisfy all of the following criteria:

(1) Be at least 18 years of age and competent to enter into a contract.

(2) Not be a party to another reciprocal beneficiaries relationship, a civil union or a marriage.

(3) Be related by blood or by adoption and prohibited from establishing a civil union or marriage with the other party to the proposed reciprocal beneficiaries relationship.

(4) Consent to the reciprocal beneficiaries relationship without force, fraud or duress.

**§ 1304. ESTABLISHING A RECIPROCAL BENEFICIARIES****RELATIONSHIP**

Two persons who meet the criteria set forth in section 1303 of this title may establish a reciprocal beneficiaries relationship by presenting a signed, notarized declaration of a reciprocal beneficiaries relationship to the commissioner and paying a filing fee of \$10.00. The commissioner shall file the declaration and give the parties a certificate of reciprocal beneficiaries relationship showing that the declaration was filed in the names of the parties.

**§ 1305. DISSOLUTION OF A RECIPROCAL BENEFICIARIES****RELATIONSHIP**

(a) Either party to a reciprocal beneficiaries relationship may terminate the relationship by filing a signed notarized declaration with the commissioner.

(b) Within 60 days of the filing of the declaration and payment of a filing fee of \$10.00 by a party to a reciprocal beneficiaries relationship, the commissioner shall file the declaration and issue a certificate of termination of a reciprocal beneficiaries relationship to each party of the former relationship.

(c) If a party to a reciprocal beneficiaries relationship enters into a valid civil union or a marriage, the reciprocal beneficiaries relationship shall terminate and the parties shall no longer be entitled to the benefits, protections and responsibilities of the reciprocal beneficiaries relationship.

**§ 1306. COMMISSIONER OF HEALTH; DUTIES**

(a) The commissioner shall provide forms for a declaration of a reciprocal

beneficiaries relationship and a declaration of termination of a reciprocal beneficiaries relationship.

(b) The commissioner shall keep a record of all declarations of a reciprocal beneficiaries relationship and declarations of termination of a reciprocal beneficiaries relationship.

(c) The commissioner shall prepare an informative circular or pamphlet that explains how a reciprocal beneficiaries relationship may be established and terminated, and the benefits, protections and responsibilities that are associated with the reciprocal beneficiaries relationship.

**Sec. 30. 18 V.S.A. § 1853 is added to read:**

**§ 1853. HOSPITAL VISITATION POLICY; RECIPROCAL  
BENEFICIARY**

A patient's reciprocal beneficiary, as defined in section 1302 of Title 15, shall have the same rights as a spouse with respect to visitation and making health care decisions for the patient.

**Sec. 31. 18 V.S.A. § 5240 is amended to read:**

**§ 5240. MAKING, REVOKING AND OBJECTING TO ANATOMICAL  
GIFTS, BY OTHERS**

(a) Any member of the following classes of individuals, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent has made an unrevoked refusal to make that anatomical gift:

- (1) The spouse of the decedent.
- (2) The reciprocal beneficiary of the decedent.
- ~~(2)~~(3) An adult son or daughter of the decedent.
- ~~(3)~~(4) Either parent of the decedent.
- ~~(4)~~(5) An adult brother or sister of the decedent.
- ~~(5)~~(6) A grandparent of the decedent.
- ~~(6)~~(7) An individual possessing a durable power of attorney.
- ~~(7)~~(8) A guardian of the person of the decedent at the time of death.
- ~~(8)~~(9) Any other individual authorized or under obligation to dispose of the body.

\* \* \*

**Sec. 32. 18 V.S.A. § 5220 is added to read:**

**§ 5220. DECISION-MAKING REGARDING REMAINS;**

**RECIPROCAL BENEFICIARY**

A decedent’s reciprocal beneficiary, as defined in section 1302 of Title 15, shall have the same rights as a spouse with respect to matters related to this chapter.

**Sec. 33. 14 V.S.A. § 3456 is amended to read:**

**§ 3456. EXECUTION AND WITNESSES**

The durable power of attorney for health care shall be signed by the principal in the presence of at least two or more subscribing witnesses, neither of whom shall, at the time of execution, be the agent, the principal's health or

residential care provider or the provider's employee, the principal's spouse, heir, or reciprocal beneficiary, a person entitled to any part of the estate of the principal upon the death of the principal under a will or deed in existence or by operation of law or any other person who has, at the time of execution, any claims against the estate of the principal. The witnesses shall affirm that the principal appeared to be of sound mind and free from duress at the time the durable power of attorney for health care was signed and that the principal affirmed that he or she was aware of the nature of the documents and signed it freely and voluntarily. If the principal is physically unable to sign, the durable power of attorney for health care may be signed by the principal's name written by some other person in the principal's presence and at the principal's express direction.

**Sec. 34. 18 V.S.A. § 5254 is amended to read:**

**§ 5254. EXECUTION AND WITNESSES**

The document set forth in section 5253 of this title shall be executed by the person making the same in the presence of two or more subscribing witnesses, none of whom shall be the person's spouse, heir, reciprocal beneficiary, attending physician or person acting under the direction or control of the attending physician or any other person who has at the time of the witnessing thereof any claims against the estate of the person.

**Sec. 35. 18 V.S.A. § 1852 is amended to read:**

**§ 1852. PATIENTS' BILL OF RIGHTS; ADOPTION**

(a) The general assembly hereby adopts the "Bill of Rights for Hospital Patients" as follows:

\* \* \*

(3) The patient has the right to obtain, from the physician coordinating his or her care, complete and current information concerning diagnosis, treatment, and any known prognosis in terms the patient can reasonably be expected to understand. If the patient consents or if the patient is incompetent or unable to understand, immediate family members, a reciprocal beneficiary or a guardian may also obtain this information. When it is not medically advisable to give such information to the patient, the information shall be made available to immediate family members, a reciprocal beneficiary or a guardian. The patient has the right to know by name the attending physician primarily responsible for coordinating his or her care.

\* \* \*

(14) Whenever possible, guardians or parents have the right to stay with their children 24 hours per day. Whenever possible, guardians, reciprocal beneficiaries or immediate family members have the right to stay with terminally ill patients 24 hours a day.

\* \* \*

**Sec. 36. 33 V.S.A. § 7301 is amended to read:**

**§ 7301. NURSING HOME RESIDENTS' BILL OF RIGHTS**

The general assembly hereby adopts the Nursing Home Residents' Bill of

Rights as follows:

The governing body of the facility shall establish written policies regarding the rights and responsibilities of residents and, through the administrator, is responsible for development of, and adherence to, procedures implementing such policies. These policies and procedures shall be made available to residents, to any guardians, next of kin, reciprocal beneficiaries, sponsoring agency, or representative payees selected pursuant to section 205(j) of the Social Security Act, and Subpart Q of 20 CFR Part 404, and to the public. The staff of the facility shall ensure that, at least, each person admitted to the facility:

\* \* \*

(14) if married or in a reciprocal beneficiaries relationship, is assured privacy for visits by his or her spouse or reciprocal beneficiary; if both are residents of the facility, they are permitted to share a room;

\* \* \*

(20) residents and their families, including a reciprocal beneficiary, shall have the right to organize, maintain, and participate in either resident or family councils or both. The facility shall provide space and, if requested, assistance for meetings. Council meetings shall be afforded privacy, with staff or visitors attending only at the council's invitation. The facility shall respond in writing to written requests from council meetings. Resident councils and family councils shall be encouraged to make recommendations regarding facility

policies;

(21) residents and their families, including a reciprocal beneficiary, shall have the right to review current and past state and federal survey and inspection reports of the facility, and upon request, to receive from the facility a copy of any report. Copies of reports shall be available for review at any time at one station in the facility. The facility may charge a reasonable amount for more than one copy per resident.

**Sec. 37. 33 V.S.A. § 7306 is amended to read:**

**§ 7306. RESIDENT'S REPRESENTATIVE**

(a) The rights and obligations established under this chapter shall devolve to a resident's reciprocal beneficiary, guardian, next of kin, sponsoring agency or representative payee (except when the facility itself is a representative payee) if the resident:

(1) has been adjudicated incompetent;

(2) has been found by his or her physician to be medically incapable of understanding or exercising the rights granted under this chapter; or

(3) exhibits a communication barrier.

\* \* \*

**Sec. 38. 15 V.S.A. § 1101(6) is added to read:**

(6) "Family" shall include a reciprocal beneficiary.

**Sec. 39. CONSTRUCTION**

(a) This act shall be construed broadly in order to secure to eligible

same-sex couples the option of a legal status with the benefits and protections of civil marriage, in accordance with the requirements of the Common Benefits Clause of the Vermont Constitution. Parties to a civil union shall have all of the same benefits, protections and responsibilities under state law, whether derived from statute, administrative or court rule, policy, common law or any other source of civil law, as are granted to spouses in a marriage. Treating the benefits, protections and responsibilities of civil marriage differently from the benefits, protections and responsibilities of civil unions is permissible only when clearly necessary because the gender-based text of a statute, rule or judicial precedent would otherwise produce an unjust, unwarranted, or confusing result, and different treatment would promote or enhance, and would not diminish, the common benefits and protections that flow from marriage under Vermont law.

(b) This act is intended to extend to parties to a civil union the benefits, protections and responsibilities that flow from marriage under Vermont law. Many of the laws of this state are intertwined with federal law, and the general assembly recognizes that it does not have the jurisdiction to control federal laws or the benefits, protections and responsibilities related to them.

(c) This act shall not be construed in a manner which violates the free exercise of religion of any person, religious or denominational institution or organization, or any organization operated for charitable or educational purposes which is operated, supervised, or controlled by or in connection with

a religious organization, as guaranteed by the First Amendment to the Constitution of the United States or by Chapter I, Article 3rd, of the Constitution of the State of Vermont.

**Sec. 40. VERMONT CIVIL UNION REVIEW COMMISSION**

(a) The Vermont Civil Union Review Commission is established for a term of two years, commencing on the effective date of this act. The commission shall be comprised of 11 members, consisting of two members of the House designated by the Speaker of the House, who shall be of different political party affiliations; two members of the Senate designated by the Senate Committee on Committees, who shall be of different political party affiliations; four members appointed by the Governor representing the public, one of whom shall be an attorney familiar with Vermont family law; one member appointed by the Chief Justice of the Vermont Supreme Court; the chair of the Human Rights Commission or his or her designee; and the Attorney General or his or her designee.

(b) The commission members shall be appointed for a full term of two years; members who were members of the House of Representatives or the Senate at the time of their appointment shall continue as members of the commission, notwithstanding a change in their status as elected officials. A member who resigns, dies or takes up residency in another state or country shall be replaced in the same manner as the member was first selected.

(c) Upon passage of this act, the commission shall prepare and implement a

plan to inform members of the public, state agencies, and private and public sector businesses and organizations about the act.

(d) The commission shall:

(1) collect information about the implementation, operation, and effect of this act, from members of the public, state agencies, and private and public sector businesses and organizations;

(2) collect information about the recognition and treatment of Vermont civil unions by other states and jurisdictions, including procedures for dissolution;

(3) evaluate the impact and effectiveness of this act, with particular attention to Secs. 1, 2 and 39;

(4) explore and propose methods and techniques, including existing and emerging forms of alternative dispute resolution, to complement the judicial system for the appropriate resolution of questions or disputes that may arise concerning the interpretation, implementation and enforcement of this act; and

(5) examine reciprocal beneficiaries relationships and evaluate whether non-related persons over 62 years of age should be permitted to establish a reciprocal beneficiaries relationship and whether the legal benefits, protections and responsibilities of a reciprocal beneficiaries relationship should be expanded.

(e) The commission shall report its findings, conclusions and recommendations to the general assembly, periodically as deemed necessary

by the commission; however, the commission shall report to the general assembly and governor, at least annually, by January 15 of the years 2001 and 2002.

(f) The commission shall elect a chair and vice-chair, shall conduct its meetings pursuant to Robert's Rules of Order, and shall be subject to the public meeting laws pursuant to subchapter 2 of chapter 5 of Title 1.

(g) The commission may request and shall receive the assistance of any agency of the state of Vermont, and may solicit written comments from members of the public, civic organizations, businesses and others. The commission may hold public hearings throughout the state.

(h) The members of the commission shall have the assistance of the staff of legislative council and the joint fiscal office.

#### **Sec. 41. SEVERABILITY**

The provisions of this act are severable. If any provision of this act is invalid, or if any application thereof to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

#### **Sec. 42. EFFECTIVE DATES**

(a) This section and Secs. 1, 2 and 40 shall be effective upon passage.

(b) Secs. 17 and 18 (insurance) of this act shall become effective on January 1, 2001.

(c) Secs. 20 (tax definitions) and 21 (income taxation of parties to parties to

a civil union) of this act shall apply to taxable years beginning on and after January 1, 2001.

(d) Sec. 23 of this act (veterans' property tax exemption) shall apply to grand lists for 2001 and after.

(e) All other sections of this act shall become effective on July 1, 2000.

Approved: April 26, 2000