

HB444: Hawai'i's Civil Unions Bill

Fast Facts

Rev. 5/21/10

House Bill ("HB") 444 allows both same-sex and different-sex couples to enter into a legally binding "civil union" under state law and establishes an alternative legal status to marriage or a reciprocal beneficiary relationship. HB444 has passed the legislature and is on the desk of Governor Lingle.

1. Will HB444 allow same-sex couples the right to marry?

No. Under Hawai'i law, only different-sex couples are allowed to marry. Civil unions are a different legal status open to all couples, regardless of gender and sexual orientation.

2. Was it proper for the House to pass HB444 at the end of the session?

Yes. In 2009, after a number of public hearings, the House of Representatives passed HB444 with a 33-17 vote. The Senate then amended and passed it with an 18-7 vote in January, 2010. The House then postponed voting on the amended bill in favor of tackling the budget and other difficult issues. On April 29, 2010, after completing these duties, the House took up HB444 and voted to send the bill to the Governor. With that vote, constituents were able to find out where their representatives stood on the issue and the bill was able to receive a final and fair resolution from the legislature.

3. Doesn't Hawai'i already have a "reciprocal beneficiaries" law?

Yes. Two people who want the legal rights and responsibilities of a reciprocal benefi-

ciary relationship, such as two elderly sisters who live together, will still be able to get one. However, its limited rights and responsibilities are inadequate for many families.

4. Will civil unions threaten my marriage?

No. HB444 will not change Hawai'i's marriage laws at all, or the right of different-sex couples to marry either in a civil ceremony or according to their religious traditions.

5. Will my church be forced to perform civil unions? If they decline, can my church lose its tax-exempt status?

No. HB444 is explicit that no one authorized to solemnize civil unions can be fined or penalized in any way for refusing to do so.

6. Will HB444 force our schools to teach about gay relationships?

No. HB444 simply seeks to protect all families under the law. State law does not require teaching about particular kinds of relationships or families, and HB444 has no bearing on education policy.

7. We have a budget crisis. Can we afford civil unions?

Yes. Because most people in Hawai'i already have health care under current law, it is unlikely that employers would see a rise in costs. Couples in a civil union must take responsibility for each other financially so the state may see a reduction in public benefits claims and an increase in overall financial stability.

8. Would a different-sex couple ever choose a civil union over marriage?

Yes. Different-sex couples may get a civil union for many reasons. Older heterosexual couples, in particular, may find their needs

better addressed through a civil union rather than marriage. A civil union may allow them to protect each other and their children legally while still honoring their personal views about marriage. For instance, couples whose former marriages ended because of divorce or a spouse's death may get a civil union because their religious or other beliefs dictate that they should marry only once in a lifetime. Some couples simply disagree with marriage for personal or religious reasons, or do not want to participate in an institution that discriminates against same-sex couples.

9. Can a civil union be dissolved?

Yes. HB444 allows civil union partners to dissolve their union in family court, using the same rules as a divorce action. This legal proceeding will call upon the family court to decide a fair distribution of property between the partners; determine whether either should pay support to the other and, if so, how much; decide how any shared debts should be managed; and, if the couple has children, make a plan for any child support duties, custody and visitation arrangements.

10. If HB444 becomes law, can it be challenged later in court?

Yes. State laws can always be challenged in court on the grounds that they violate the constitution. Legal analysts believe that this bill, among the first of its kind in the nation, would withstand legal challenges because it treats all people equally ñ regardless of sex and sexual orientation ñ and because it explicitly respects the religious rights of clergy who may not wish to solemnize civil unions.

READY TO FIGHT FOR EQUALITY?

Contact Governor Lingle today and ask her to sign the civil unions bill!

Email: governor.lingle@hawaii.gov

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Fax: (808) 586-0006

The Honorable Linda Lingle
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Honolulu, Hawai'i 96813

READY TO LEARN MORE?

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Tel. Toll Free: (866) 542-8336

Email: www.lambdalegal.org/help

Website: www.lambdalegal.org

“Out At Work Took Kit”: www.lambdalegal.org/take-action/tool-kits/out-at-work.

ACLU of Hawai'i

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THE RIGHTS & OBLIGATIONS OF CIVIL UNION PARTNERS UNDER HB444:

Civil union partners will have the rights and responsibilities that state law confers on different-sex spouses. These state-based protections and duties include, for example:

Responsibilities

- liability for each other's debts
- limitations on one's freedom to make decisions about property and inheritance
- potential duties to provide financial support during a relationship and after a breakup
- responsibilities regarding any children of the relationship

Rights

- rights relating to emergency medical decisions and hospital visitation
- economic protections upon death of a partner, such as inheritance rights
- rights regarding a partner's burial, autopsy and disposition of remains
- rights to bring wrongful death & other claims that depend upon a state-conferred status
- rights to receive workers' compensation benefits if a partner dies in the workplace
- health insurance and pension benefits for partners of public employees
- rights to own property jointly in ways that provide some protection against creditors
- access to courts and the legal procedures for managing the ending of a relationship

There are reasons that some couples may not wish to enter a civil union. Contact Lambda Legal and the ACLU for more information.

This information is presented as a public service by:



Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work.



Since 1965, the ACLU of Hawai'i mission is to protect the civil liberties contained in the state and federal constitutions through legal, legislative & education programs statewide. Funded primarily through private donations, the ACLU offers its services at no cost to the public & does not accept any government funds.

PLEASE NOTE: This document offers general information only and not guidance or legal advice regarding any specific situations.

If you have additional questions about HB444 or are looking for contact information for private attorneys who might advise you, please contact Lambda Legal or the ACLU of Hawai'i per the information at the end of this fact sheet.