

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0217.03 Debbie Haskins x2045

SENATE BILL 15-016

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING MARRIAGES BY INDIVIDUALS WHO ARE PARTIES TO A
102 CIVIL UNION, AND, IN CONNECTION THEREWITH, PROHIBITING
103 MARRIAGES IN CIRCUMSTANCES IN WHICH ONE OF THE PARTIES
104 IS ALREADY IN A CIVIL UNION WITH ANOTHER INDIVIDUAL,
105 ADDRESSING THE LEGAL EFFECT OF PARTIES TO A CIVIL UNION
106 MARRYING EACH OTHER, CLARIFYING THE DISSOLUTION
107 PROCESS WHEN PARTIES TO A CIVIL UNION MARRY, AND
108 AMENDING THE BIGAMY STATUTE TO INCLUDE PARTIES TO A
109 CIVIL UNION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries.>)

The bill addresses issues that have arisen in Colorado regarding marriages by individuals who are in a civil union or who will enter into a civil union after recent court decisions have declared same-sex marriage bans, such as section 31 of article II of the state constitution, unconstitutional.

The bill amends the statute on prohibited marriages to disallow a marriage entered into prior to the dissolution of an earlier civil union of one of the parties, except a currently valid civil union between the same 2 parties. The executive director of the department of public health and environment is directed to revise the marriage license application to include questions regarding prior civil unions.

The bill states that the "Colorado Civil Union Act" (act) does not affect a marriage legally entered into in another jurisdiction between 2 individuals who are the same sex. The construction statute for the act is amended to clarify that it must not be construed to create a marriage, including a common law marriage, between the parties to a civil union.

Two parties who have entered into a civil union may subsequently enter into a legally recognized marriage with each other by obtaining a marriage license from a county clerk and recorder in this state and by having the marriage solemnized and registered as a marriage with a county clerk and recorder. The bill states that the effect of marrying in that circumstance is to merge the civil union into a marriage by operation of law.

A separate dissolution of a civil union is not required when a civil union is merged into a marriage by operation of law. If one or both of the parties to the marriage subsequently desire to dissolve the marriage, legally separate, or have the marriage declared invalid, one or both of the parties must file proceedings in accordance with the procedures specified in the "Uniform Dissolution of Marriage Act". Any dissolution, legal separation, or declaration of invalidity of the marriage must be in accordance with the "Uniform Dissolution of Marriage Act". If a civil union is merged into marriage by operation of law, any calculation of the duration of the marriage includes the time period during which the parties were in a civil union.

The criminal statute on bigamy is amended, effective July 1, 2015, to include a person who, while married, marries, enters into a civil union, or cohabits in this state with another person and to include a person who, while still legally in a civil union, marries, enters into a civil union, or cohabits in this state with another person.

1 *Be it enacted by the General Assembly of the State of Colorado:*

1 **SECTION 1.** In Colorado Revised Statutes, 14-2-105, **add** (1)
2 (b.5) as follows:

3 **14-2-105. Marriage license and marriage certificate.** (1) The
4 executive director of the department of public health and environment
5 shall prescribe the form for an application for a marriage license, which
6 shall include the following information:

7 (b.5) IF EITHER PARTY HAS PREVIOUSLY BEEN A PARTNER IN A
8 CIVIL UNION AND, IF SO, THE NAME OF THE OTHER PARTNER IN THE CIVIL
9 UNION, WHETHER THE CIVIL UNION WAS MERGED INTO A MARRIAGE BY
10 OPERATION OF LAW, OR THE DATE, PLACE, AND COURT IN WHICH THE CIVIL
11 UNION WAS DISSOLVED OR DECLARED INVALID, OR THE DATE AND PLACE
12 OF DEATH OF THE FORMER PARTNER IN THE CIVIL UNION;

13 **SECTION 2.** In Colorado Revised Statutes, 14-2-110, **add** (1)
14 (a.5) as follows:

15 **14-2-110. Prohibited marriages.** (1) The following marriages
16 are prohibited:

17 (a.5) A MARRIAGE ENTERED INTO PRIOR TO THE DISSOLUTION OF
18 AN EARLIER CIVIL UNION OF ONE OF THE PARTIES, EXCEPT A CURRENTLY
19 VALID CIVIL UNION BETWEEN THE SAME TWO PARTIES;

20 **SECTION 3.** In Colorado Revised Statutes, **add** 14-10-106.7 as
21 follows:

22 **14-10-106.7. Dissolution when parties to a civil union marry**
23 **- duration of the marriage.** (1) PARTIES WHO HAVE ENTERED INTO A
24 CIVIL UNION PURSUANT TO ARTICLE 15 OF THIS TITLE AND WHO
25 SUBSEQUENTLY MARRIED AND HAD THEIR CIVIL UNION MERGED INTO A
26 MARRIAGE BY OPERATION OF LAW AS PROVIDED IN SECTION 14-15-118.5
27 NEED NOT DISSOLVE THEIR CIVIL UNION. IF ONE OR BOTH OF THE PARTIES

1 TO THE MARRIAGE SUBSEQUENTLY DESIRE TO DISSOLVE THE MARRIAGE,
2 LEGALLY SEPARATE, OR HAVE THE MARRIAGE DECLARED INVALID, ONE OR
3 BOTH OF THE PARTIES MUST FILE A PETITION IN ACCORDANCE WITH THE
4 PROCEDURES SPECIFIED IN THIS ARTICLE.

5 (2) IF A CIVIL UNION WAS MERGED INTO MARRIAGE BY OPERATION
6 OF LAW, ANY CALCULATION OF THE DURATION OF THE MARRIAGE
7 INCLUDES THE TIME PERIOD DURING WHICH THE PARTIES WERE IN A CIVIL
8 UNION.

9 **SECTION 4.** In Colorado Revised Statutes, 14-10-114, **amend**
10 (8) (b) as follows:

11 **14-10-114. Maintenance.** (8) **Definitions.** As used in this
12 section, unless the context otherwise requires:

13 (b) "Duration of marriage" means the number of whole months,
14 beginning from the first day of the month following the date of the
15 parties' marriage until the date of decree or the date of the hearing on
16 disposition of property if such hearing precedes the date of the decree. IF
17 A CIVIL UNION WAS MERGED INTO MARRIAGE BY OPERATION OF LAW AS
18 PROVIDED IN SECTION 14-15-118.5, "DURATION OF MARRIAGE" INCLUDES
19 THE TIME PERIOD DURING WHICH THE PARTIES WERE IN A CIVIL UNION.

20 **SECTION 5.** In Colorado Revised Statutes, 14-15-116, **amend**
21 (1) as follows:

22 **14-15-116. Reciprocity - principle of comity.** (1) ~~A relationship~~
23 ~~between two persons that does not comply with section 31 of article II of~~
24 ~~the state constitution but that was~~ THIS ARTICLE DOES NOT AFFECT A
25 MARRIAGE legally entered into in another jurisdiction ~~is deemed in~~
26 ~~Colorado to be a civil union as set forth in this article~~ BETWEEN TWO
27 INDIVIDUALS OF THE SAME SEX.

1 **SECTION 6.** In Colorado Revised Statutes, **amend** 14-15-118 as
2 follows:

3 **14-15-118. Construction - civil union is not marriage.** The
4 provisions of this article shall not be construed to create a marriage,
5 INCLUDING A COMMON LAW MARRIAGE, between the parties to a civil
6 union. ~~or alter the public policy of this state, which recognizes only the~~
7 ~~union of one man and one woman as a marriage.~~

8 **SECTION 7.** In Colorado Revised Statutes, **add** 14-15-118.5 as
9 follows:

10 **14-15-118.5. Construction - effect of parties to a civil union**
11 **marrying - dissolution when parties to a civil union marry - duration**
12 **of the marriage.** (1) PARTIES WHO HAVE ENTERED INTO A CIVIL UNION
13 PURSUANT TO THIS ARTICLE MAY SUBSEQUENTLY ENTER INTO A MARRIAGE
14 WITH EACH OTHER BY OBTAINING A MARRIAGE LICENSE FROM A COUNTY
15 CLERK AND RECORDER IN THIS STATE AND BY HAVING THE MARRIAGE
16 SOLEMNIZED AND REGISTERED WITH A COUNTY CLERK AND RECORDER AS
17 PROVIDED BY COLORADO LAW. AFTER THE SOLEMNIZATION OF THE
18 MARRIAGE AND UPON THE REGISTRATION OF THE MARRIAGE CERTIFICATE
19 WITH THE COUNTY CLERK AND RECORDER, THE PARTIES' CIVIL UNION IS
20 MERGED INTO THE MARRIAGE BY OPERATION OF LAW AS OF THE DATE OF
21 THE MARRIAGE STATED IN THE MARRIAGE CERTIFICATE.

22 (2) PARTIES WHO HAVE ENTERED INTO A CIVIL UNION PURSUANT
23 TO THIS ARTICLE AND WHO SUBSEQUENTLY MARRY AND HAVE THEIR CIVIL
24 UNION MERGED INTO A MARRIAGE BY OPERATION OF LAW AS PROVIDED IN
25 SUBSECTION (1) OF THIS SECTION NEED NOT DISSOLVE THEIR CIVIL UNION.
26 IF ONE OR BOTH OF THE PARTIES TO THE MARRIAGE SUBSEQUENTLY DESIRE
27 TO DISSOLVE THE MARRIAGE, LEGALLY SEPARATE, OR HAVE THE

1 MARRIAGE DECLARED INVALID, ONE OR BOTH OF THE PARTIES MUST FILE
2 A PETITION IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN ARTICLE
3 10 OF THIS TITLE. ANY DISSOLUTION, LEGAL SEPARATION, OR
4 DECLARATION OF INVALIDITY OF THE MARRIAGE MUST BE IN ACCORDANCE
5 WITH THE PROCEDURES SPECIFIED IN ARTICLE 10 OF THIS TITLE.

6 (3) IF A CIVIL UNION WAS MERGED INTO MARRIAGE BY OPERATION
7 OF LAW, ANY CALCULATION OF THE DURATION OF THE MARRIAGE
8 INCLUDES THE TIME PERIOD DURING WHICH THE PARTIES WERE IN A CIVIL
9 UNION.

10 **SECTION 8.** In Colorado Revised Statutes, **amend** 18-6-201 as
11 follows:

12 **18-6-201. Bigamy.** (1) Any married person who, while still
13 married, marries, ENTERS INTO A CIVIL UNION, or cohabits in this state
14 with another PERSON commits bigamy, unless as an affirmative defense
15 it appears that at the time of the cohabitation, ~~or~~ subsequent marriage, OR
16 SUBSEQUENT CIVIL UNION:

17 (a) The accused reasonably believed the prior spouse to be dead;
18 or

19 (b) The prior spouse had been continually absent for a period of
20 five years during which time the accused did not know the prior spouse
21 to be alive; or

22 (c) The accused reasonably believed that he OR SHE was legally
23 eligible to remarry OR LEGALLY ELIGIBLE TO ENTER INTO A CIVIL UNION.

24 (1.5) ANY PERSON WHO IS A PARTNER IN A CIVIL UNION, WHILE
25 STILL LEGALLY IN A CIVIL UNION, WHO MARRIES, ENTERS INTO A CIVIL
26 UNION, OR COHABITS IN THIS STATE WITH ANOTHER PERSON COMMITS
27 BIGAMY, UNLESS AS AN AFFIRMATIVE DEFENSE IT APPEARS THAT AT THE

1 TIME OF THE COHABITATION OR SUBSEQUENT MARRIAGE OR SUBSEQUENT
2 CIVIL UNION:

3 (a) THE ACCUSED REASONABLY BELIEVED THE PRIOR PARTNER TO
4 BE DEAD; OR

5 (b) THE PRIOR PARTNER HAD BEEN CONTINUALLY ABSENT FOR A
6 PERIOD OF FIVE YEARS DURING WHICH TIME THE ACCUSED DID NOT KNOW
7 THE PRIOR PARTNER TO BE ALIVE; OR

8 (c) THE ACCUSED REASONABLY BELIEVED THAT HE OR SHE WAS
9 LEGALLY ELIGIBLE TO MARRY OR LEGALLY ELIGIBLE TO ENTER INTO A
10 CIVIL UNION.

11 (2) Bigamy is a class 6 felony.

12 **SECTION 9. Effective date - applicability.** This act takes effect
13 upon passage; except that section 8 takes effect July 1, 2015, and applies
14 to offenses committed on or after said date.

15 **SECTION 10. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.