



## PERSPECTIVES for a DIVERSE AMERICA

# An Act to Protect Religious Freedom and Recognize Equality in Civil Marriage

[With this law, passed by the General Assembly in 2009, Vermont became the fourth state to recognize same-sex marriages.]

AS PASSED BY HOUSE AND SENATE S.115

An act relating to civil marriage

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

### Sec. 1. SHORT TITLE

This act may be referred to and cited as “An Act to Protect Religious Freedom and Recognize Equality in Civil Marriage.”

### Sec. 2. PURPOSE

The purpose of this act is to recognize legal equality in the civil marriage laws and to protect the religious freedom of clergy and religious societies authorized to solemnize civil marriages.

Sec. 3. 15 V.S.A. § 1a is added to read:

#### § 1a. PERSON FORBIDDEN TO MARRY A RELATIVE

No person shall marry his or her parent, grandparent, child, grandchild, sibling, sibling’s child, or parent’s sibling.

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

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

Marriages contracted while either party is legally married or joined in civil union to a living person other than the party to that marriage shall be void.

Sec. 5. 15 V.S.A. § 8 is amended to read:

#### § 8. MARRIAGE DEFINITION

Marriage is the legally recognized union of two people. When used in this chapter or in any other statute, the word “marriage” shall mean a civil marriage. Terms relating to the marital relationship or familial relationships shall be construed consistently with this section for all purposes throughout the law, whether in the context of statute, administrative or court rule, policy, common law, or any other source of civil law.

Sec. 6. 15 V.S.A. § 1202(2) is amended to read:

(2) Be of the same sex

Sec. 7. 18 V.S.A. § 5131(a) is amended to read:

(a)(1) Upon application in a form prescribed by the department, a town clerk shall issue to a person a civil 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 the clerk's office a copy thereof.

(2) The department shall prescribe forms that allow each party to a marriage to be designated "bride," "groom," or "spouse," as he or she chooses, and the application shall be in substantially the following form: ...

Sec. 8. 18 V.S.A. § 5142 is amended to read:

## § 5142. RESTRICTIONS AS TO MINORS AND INCOMPETENT PERSONS

A clerk shall not issue a marriage license when either party to the intended marriage is:

(1) A person who has not attained ~~his~~ majority without the consent in writing of one of the parents if there is one competent to act; or the guardian of such minor;

(2) Nor with such consent when either party is under 16 years of age

(3) Nor when either of the parties to the intended marriage is non compos mentis;

(4) Nor to a person under guardianship without the written consent of such guardian;

Sec. 10. 8 V.S.A. § 4501 is amended to read:

## § 4501. EXEMPTIONS

(a) Except as herein provided, societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein.

(b) The civil marriage laws shall not be construed to affect the ability of a society to determine the admission of its members as provided in section 4464 of this title, or to determine the scope of beneficiaries in accordance with section 4477 of this title, and shall not require a society that has been established and is operating for charitable and educational purposes and which is operated, supervised, or controlled by or in connection with a religious organization to provide insurance benefits to any person if to do so would violate the society's free exercise of religion, as guaranteed by the First Amendment to the Constitution of The United States or by Chapter I, Article 3 of the Constitution of the State of Vermont

Sec. 11. 9 V.S.A. § 4502 is amended to read:

## § 4502. PUBLIC ACCOMMODATIONS

\* \* \*

(I) Notwithstanding any other provision of law, a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, shall not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request for such services, accommodations, advantages, facilities, goods, or privileges is related to the solemnization of a marriage or celebration of a marriage. Any refusal to provide services, accommodations, advantages, facilities, goods, or privileges in accordance with this subsection shall not create any civil claim or cause of action. This subsection shall not be construed to limit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization from selectively providing services, accommodations, advantages, facilities, goods, or privileges to some individuals with respect to the solemnization or celebration of a marriage but not to others.

## Sec. 12. REPEAL

(a) The following sections in Title 15 are repealed:

- (1) § 1 (man forbidden to marry relatives);
- (2) § 2 (woman forbidden to marry relatives);
- (3) § 5 (marriage entered into in another state);
- (4) § 6 (marriage void in state of residence);
- (5) § 1201(4) (definition of marriage).

(b) The following sections in Title 18 are repealed:

- (1) § 5160 (issuance of civil union license; certification; return of civil union certificate);
- (2) § 5161 (issuance of license);
- (3) § 5162 (proof of legal qualifications of parties to a civil union; penalty);
- (4) § 5163 (restrictions as to minors and incompetent persons);
- (5) § 5164 (persons authorized to certify civil unions);
- (6) § 5164a (temporary officiant for civil unions);

(7) § 5165 (civil union license required for certification; failure to return).

## Sec. 12a. STATUTORY REVISIONS

The staff of the legislative council, in its statutory revision capacity, is authorized and directed to make such amendments to the Vermont Statutes Annotated as are necessary to effect the purpose of this act, including, where applicable, substituting the words "civil marriage" for the word "marriage." Such changes shall be made when new legislation is proposed, or there is a republication of a volume of the Vermont Statutes Annotated.

## Sec. 13. EFFECTIVE DATE

This act shall take effect September 1, 2009.

Planning a lesson or unit on marriage equality? Try grouping this text with the [Defense of Marriage Act](#) and "[Loving for All](#)."

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