

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0066.03 Debbie Haskins x2045

SENATE BILL 16-150

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Esgar,

Senate Committees
Judiciary

House Committees
Judiciary
Public Health Care & Human Services

HOUSE
3rd Reading Unamended
May 10, 2016

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.**

HOUSE
2nd Reading Unamended
May 9, 2016

SENATE
3rd Reading Unamended
April 29, 2016

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.

SENATE
Amended 2nd Reading
April 28, 2016

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 entered or who will enter into a civil union after the passage of the bill.

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 bill states that a civil union license and a civil union certificate do not constitute evidence of the parties' intent to create a common law marriage.

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 the 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 a 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, 2016, to include a person who, while married, marries, enters into a civil union, or cohabits in the state with another person not his her spouse and to include a person who, while still legally in a civil union, marries, enters into a civil union, or cohabits in the state with another person not his or her civil union partner.

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

1 **SECTION 1. Legislative declaration.** (1) The general assembly
2 finds a legal conflict between the Colorado constitution and the manner
3 in which the decision in *Obergefell v. Hodges*, 576 U.S. ____ (2015), has
4 altered the issuance of marriage licenses in Colorado.

5 (2) The people, through a citizen's initiative, established in the
6 Colorado constitution a specific definition of marriage where that legal
7 relationship is exclusively reserved for a relationship between one man
8 and one woman. However, in the five to four *Obergefell* decision, the
9 United States supreme court nullified a similar constitutional definition
10 of marriage in Ohio for James Obergefell and other petitioners.

11 (3) As a consequence of the *Obergefell* decision, Colorado county
12 clerks and recorders began issuing marriage licenses to couples who also
13 held civil union licenses. Now couples who hold both civil union and
14 marriage licenses face a more complicated legal process if they wish to
15 dissolve their legal relationships.

16 (4) Senate Bill 16-150 is intended to remedy the complicated legal
17 process of dissolving a civil union and a marriage for the same couple.
18 The ultimate constitutional question of the United States supreme court's
19 constitutional jurisdiction and authority to redefine marriage in Colorado's
20 constitution through a ruling on certain individual cases in other states is
21 a matter the general assembly may take up at a different time, but Senate
22 Bill 16-150 does not address, nor settle that concern.

23 **SECTION 2.** In Colorado Revised Statutes, 14-2-105, **amend** (1)
24 introductory portion; and **add** (1) (b.5) as follows:

25 **14-2-105. Marriage license and marriage certificate.** (1) The
26 executive director of the department of public health and environment
27 shall prescribe the form for an application for a marriage license, which

1 ~~shall~~ MUST include the following information:

2 (b.5) IF EITHER PARTY HAS PREVIOUSLY BEEN A PARTNER IN A
3 CIVIL UNION AND, IF SO, THE NAME OF THE OTHER PARTNER IN THE CIVIL
4 UNION, OR THE DATE, PLACE, AND COURT IN WHICH THE CIVIL UNION WAS
5 DISSOLVED OR DECLARED INVALID, OR THE DATE AND PLACE OF DEATH OF
6 THE FORMER PARTNER IN THE CIVIL UNION;

7 **SECTION 3.** In Colorado Revised Statutes, 14-2-110, **add** (1)
8 (a.5) as follows:

9 **14-2-110. Prohibited marriages.** (1) The following marriages
10 are prohibited:

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

14 == ==

15 **SECTION 4.** In Colorado Revised Statutes, 14-15-109, **add** (3)
16 as follows:

17 **14-15-109. Civil union license and certificate.** (3) A CIVIL
18 UNION LICENSE AND A CIVIL UNION CERTIFICATE DO NOT CONSTITUTE
19 EVIDENCE OF THE PARTIES' INTENT TO CREATE A COMMON LAW MARRIAGE.

20 **SECTION 5.** In Colorado Revised Statutes, repeal 14-15-116(1).

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22 **SECTION 6.** In Colorado Revised Statutes, **add** 14-15-118.5 as
23 follows:

24 **14-15-118.5. Construction - effect when parties to a civil union**
25 **marry - dissolution process.** (1) WHEN PARTIES WHO HAVE ENTERED
26 INTO A CIVIL UNION PURSUANT TO THIS ARTICLE SUBSEQUENTLY MARRY
27 THE EFFECT IS A MERGER OF THE TWO RELATIONSHIP STATUSES. ONCE

1 MERGED, THE CIVIL UNION TERMINATES AS OF THE DATE OF THE
2 SOLEMNIZATION OF THE MARRIAGE OR DETERMINATION OF A COMMON
3 LAW MARRIAGE AND NO SEPARATE DISSOLUTION OF THE CIVIL UNION IS
4 REQUIRED.

5 (2) IF ONE OR BOTH PARTIES TO A MARRIAGE THAT HAS BEEN
6 MERGED WITH A CIVIL UNION SUBSEQUENTLY DESIRE TO DISSOLVE THE
7 MARRIAGE, LEGALLY SEPARATE, OR HAVE THE MARRIAGE DECLARED
8 INVALID, ONE OR BOTH OF THE PARTIES MUST FILE A PETITION IN
9 ACCORDANCE WITH THE PROCEDURES SPECIFIED IN ARTICLE 10 OF THIS
10 TITLE.

11 (3) IF A CIVIL UNION AND MARRIAGE WERE MERGED, ANY
12 CALCULATION OF THE DURATION OF THE MARRIAGE INCLUDES THE TIME
13 PERIOD DURING WHICH THE PARTIES WERE IN A CIVIL UNION.

14 **SECTION 7.** In Colorado Revised Statutes, **amend** 18-6-201 as
15 follows:

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

21 (a) The accused reasonably believed the prior spouse to be dead;
22 or

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

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

1 (1.5) ANY PERSON WHO IS A PARTNER IN A CIVIL UNION, WHILE
2 STILL LEGALLY IN A CIVIL UNION, WHO MARRIES, ENTERS INTO ANOTHER
3 CIVIL UNION, OR COHABITS IN THE STATE WITH ANOTHER PERSON OTHER
4 THAN A CURRENT PARTNER IN A CIVIL UNION, COMMITS BIGAMY, UNLESS
5 AS AN AFFIRMATIVE DEFENSE IT APPEARS THAT AT THE TIME OF THE
6 COHABITATION OR SUBSEQUENT MARRIAGE OR SUBSEQUENT CIVIL UNION:

7 (a) THE ACCUSED REASONABLY BELIEVED THE PRIOR PARTNER TO
8 BE DEAD; OR

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

12 (c) THE ACCUSED REASONABLY BELIEVED THAT HE OR SHE WAS
13 LEGALLY ELIGIBLE TO MARRY OR LEGALLY ELIGIBLE TO ENTER INTO A
14 CIVIL UNION.

15 (2) Bigamy is a class 6 felony.

16 **SECTION 8. Effective date - applicability.** This act takes effect
17 upon passage; except that section 7 of this act takes effect July 1, 2016,
18 and applies to offenses committed on or after said date.

19 **SECTION 9. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.