

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0066.03 Debbie Haskins x2045

SENATE BILL 16-150

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Esgar,

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 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.** In Colorado Revised Statutes, 14-2-105, **amend** (1)
2 introductory portion; and **add** (1) (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~~ **MUST** 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 PURSUANT TO SECTION 14-15-118.5, OR THE DATE,
11 PLACE, AND COURT IN WHICH THE CIVIL UNION WAS DISSOLVED OR
12 DECLARED INVALID, OR THE DATE AND PLACE OF DEATH OF THE FORMER
13 PARTNER IN THE CIVIL UNION;

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

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

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

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

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

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

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

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

12 **14-10-114. Spousal maintenance - guidelines - legislative**
13 **declaration - definitions.** (8) **Definitions.** As used in this section, unless
14 the context otherwise requires:

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

22 **SECTION 5.** In Colorado Revised Statutes, 14-15-109, **add** (3)
23 as follows:

24 **14-15-109. Civil union license and certificate.** (3) A CIVIL
25 UNION LICENSE AND A CIVIL UNION CERTIFICATE DO NOT CONSTITUTE
26 EVIDENCE OF THE PARTIES' INTENT TO CREATE A COMMON LAW MARRIAGE.

27 **SECTION 6.** In Colorado Revised Statutes, 14-15-116, **amend**

1 (1) as follows:

2 **14-15-116. Reciprocity - principle of comity.** (1) ~~A relationship~~
3 ~~between two persons that does not comply with section 31 of article II of~~
4 ~~the state constitution but that was~~ THIS ARTICLE DOES NOT AFFECT A
5 MARRIAGE legally entered into in another jurisdiction ~~is deemed in~~
6 ~~Colorado to be a civil union as set forth in this article~~ BETWEEN TWO
7 INDIVIDUALS OF THE SAME SEX.

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 - marriage by operation of law - dissolution when parties**
12 **to a civil union marry - duration of the marriage.** (1) PARTIES WHO
13 HAVE ENTERED INTO A CIVIL UNION PURSUANT TO THIS ARTICLE MAY
14 SUBSEQUENTLY ENTER INTO A MARRIAGE WITH EACH OTHER, AND UPON
15 MARRIAGE THE PARTIES' CIVIL UNION TERMINATES AND IS MERGED INTO A
16 MARRIAGE BY OPERATION OF LAW. THE CIVIL UNION TERMINATES AS OF
17 THE DATE OF THE SOLEMNIZATION OF A MARRIAGE OR THE
18 DETERMINATION OF A COMMON LAW MARRIAGE.

19 (2) PARTIES WHO HAVE ENTERED INTO A CIVIL UNION PURSUANT
20 TO THIS ARTICLE AND WHO SUBSEQUENTLY MARRY AND HAVE THEIR CIVIL
21 UNION MERGED INTO A MARRIAGE BY OPERATION OF LAW AS PROVIDED IN
22 SUBSECTION (1) OF THIS SECTION NEED NOT DISSOLVE THEIR CIVIL UNION.
23 IF ONE OR BOTH OF THE PARTIES TO THE MARRIAGE SUBSEQUENTLY DESIRE
24 TO DISSOLVE THE MARRIAGE, LEGALLY SEPARATE, OR HAVE THE
25 MARRIAGE DECLARED INVALID, ONE OR BOTH OF THE PARTIES MUST FILE
26 A PETITION IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN ARTICLE
27 10 OF THIS TITLE. ANY DISSOLUTION, LEGAL SEPARATION, OR

1 DECLARATION OF INVALIDITY OF THE MARRIAGE MUST BE IN ACCORDANCE
2 WITH THE PROCEDURES SPECIFIED IN ARTICLE 10 OF THIS TITLE.

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

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

9 **18-6-201. Bigamy.** (1) Any married person who, while still
10 married, marries, ENTERS INTO A CIVIL UNION, or cohabits in this state
11 with another PERSON commits bigamy, unless as an affirmative defense
12 it appears that at the time of the cohabitation, ~~or~~ subsequent marriage, OR
13 SUBSEQUENT CIVIL UNION:

14 (a) The accused reasonably believed the prior spouse to be dead;
15 or

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

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

21 (1.5) ANY PERSON WHO IS A PARTNER IN A CIVIL UNION, WHILE
22 STILL LEGALLY IN A CIVIL UNION, WHO MARRIES, ENTERS INTO ANOTHER
23 CIVIL UNION, OR COHABITS IN THE STATE WITH ANOTHER PERSON OTHER
24 THAN A CURRENT PARTNER IN A CIVIL UNION, COMMITS BIGAMY, UNLESS
25 AS AN AFFIRMATIVE DEFENSE IT APPEARS THAT AT THE TIME OF THE
26 COHABITATION OR SUBSEQUENT MARRIAGE OR SUBSEQUENT CIVIL UNION:

27 (a) THE ACCUSED REASONABLY BELIEVED THE PRIOR PARTNER TO

1 BE DEAD; OR

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

5 (c) THE ACCUSED REASONABLY BELIEVED THAT HE OR SHE WAS
6 LEGALLY ELIGIBLE TO MARRY OR LEGALLY ELIGIBLE TO ENTER INTO A
7 CIVIL UNION.

8 (2) Bigamy is a class 6 felony.

9 **SECTION 9. Effective date - applicability.** This act takes effect
10 upon passage; except that section 8 of this act takes effect July 1, 2016,
11 and applies to offenses committed on or after said date.

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