

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

REVISED

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

LLS NO. 16-0066.03 Debbie Haskins x2045

SENATE BILL 16-150

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SENATE SPONSORSHIP

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Senate Committees

Judiciary

House Committees

Judiciary

Public Health Care & Human Services

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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.

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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.*

HOUSE  
2nd Reading Unamended  
May 9, 2016

SENATE  
3rd Reading Unamended  
April 29, 2016

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.

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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;

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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.