

1 S.115

2 Introduced by Senators Shumlin, Campbell and Ayer

3 Referred to Committee on

4 Date:

5 Subject: Domestic relations; marriage

6 Statement of purpose: This bill proposes to permit same-sex couples to marry
7 starting September 1, 2009. Couples will not be permitted to establish civil
8 unions after such date, but existing civil unions will continue to be recognized.

9 The bill would allow clergy the right to refuse to solemnize a marriage, if to do
10 so would violate the clergyperson's right to religious liberty protected by the
11 First Amendment to the United States Constitution and by Chapter I, Article 3
12 of the Constitution of the State of Vermont.

13 An act relating to civil marriage

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

15 Sec. 1. SHORT TITLE

16 This act may be referred to and cited as "An Act to Protect Religious
17 Freedom and Promote Equality in Civil Marriage."

1 Sec. 2. PURPOSE

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

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

6 § 1a. PERSON FORBIDDEN TO MARRY A RELATIVE

7 No person shall marry his or her parent, grandparent, child, grandchild,
8 sibling, sibling's child, or parent's sibling.

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

10 § 4. MARRIAGE CONTRACTED WHILE ONE IN FORCE

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

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

15 § 8. MARRIAGE DEFINITION

16 Marriage is the legally recognized union of ~~one man and one woman~~ two
17 people. Gender-specific terms relating to the marital relationship or familial
18 relationships, including without limitation "spouse," "family," "marriage,"
19 "immediate family," "dependent," "next of kin," "bride," "groom," "husband,"
20 "wife," "widow," and "widower," shall be construed to be gender-neutral for
21 all purposes throughout the law, whether in the context of statute,

1 administrative or court rule, policy, common law, or any other source of civil
2 law.

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

4 (2) Be of the same sex ~~and therefore excluded from the marriage laws of~~
5 ~~this state.~~

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

7 (a) Upon application in a form prescribed by the department, a town clerk
8 shall issue to a person a civil marriage license in the form prescribed by the
9 department and shall enter thereon the names of the parties to the proposed
10 marriage, fill out the form as far as practicable and retain in the clerk's office a
11 copy thereof. The department shall prescribe forms that allow each party to a
12 marriage to be designated "bride," "groom," or "spouse," as he or she chooses.

13 At least one party to the proposed marriage shall sign the certifying application
14 to the accuracy of the facts so stated. The license shall be issued by the clerk
15 of the town where either ~~the bride or groom party~~ resides or, if neither is a
16 resident of the state, by any town clerk in the state.

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

18 § 5142. RESTRICTIONS AS TO MINORS AND INCOMPETENT

19 PERSONS

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

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

4 (2) Nor with such consent when either party is under ~~sixteen~~ 16 years of
5 age ~~unless furnished with a certificate of a probate, district or superior judge,~~
6 ~~of the district or county in which one of the applicants resides, if either~~
7 ~~applicant is a resident of the state, otherwise of the district or county in which~~
8 ~~the marriage is sought to be consummated, that the public good requires such~~
9 ~~license to be issued;~~

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

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

14 ~~(5) Nor in any case when either party is under fourteen years of age.~~

15 Sec. 9. 18 V.S.A. § 5144 is amended to read:

16 § 5144. PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGE

17 (a) Marriages may be solemnized by a supreme court justice, a superior
18 court judge, a district judge, a judge of probate, an assistant judge, a justice of
19 the peace, an individual who has registered as an officiant with the Vermont
20 secretary of state pursuant to section 5144a of this title, a member of the clergy
21 residing in this state and ordained or licensed, or otherwise regularly

1 authorized thereunto by the published laws or discipline of the general
2 conference, convention, or other authority of his or her faith or denomination,
3 or by such a clergy person residing in an adjoining state or country, whose
4 parish, church, temple, mosque, or other religious organization lies wholly or
5 in part in this state, or by a member of the clergy residing in some other state
6 of the United States or in the Dominion of Canada, provided he or she has first
7 secured from the probate court of the district within which the marriage is to be
8 solemnized a special authorization, authorizing him or her to certify the
9 marriage if such probate judge determines that the circumstances make the
10 special authorization desirable. Marriage among the Friends or Quakers, the
11 Christadelphian Ecclesia, and the Baha'i Faith may be solemnized in the
12 manner heretofore used in such societies.

13 (b) No member of the clergy authorized to solemnize a marriage as set
14 forth in subsection (a) of this section, nor societies of Friends or Quakers, the
15 Christadelphian Ecclesia, or the Baha'i Faith shall be required to solemnize
16 any marriage in violation of the right to religious liberty protected by the First
17 Amendment to the United States Constitution and by Chapter I, Article 3 of the
18 Constitution of the State of Vermont.

19 Sec. 10. REPEAL

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

21 (1) § 1 (man forbidden to marry relatives);

1 (2) § 2 (woman forbidden to marry relatives);

2 (3) § 5 (marriage entered into in another state);

3 (4) § 6 (marriage void in state of residence);

4 (5) § 1201(4) (definition of marriage).

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

6 (1) § 5160 (issuance of civil union license; certification; return of civil
7 union certificate);

8 (2) § 5161 (issuance of license);

9 (3) § 5162 (proof of legal qualifications of parties to a civil union;
10 penalty);

11 (4) § 5163 (restrictions as to minors and incompetent persons);

12 (5) § 5164 (persons authorized to certify civil unions);

13 (6) § 5164a (temporary officiant for civil unions);

14 (7) § 5165 (civil union license required for certification; failure to
15 return).

16 Sec. 11. EFFECTIVE DATE

17 This act shall take effect September 1, 2009.