



DEFEATED

SPONSOR: Rep. Briggs King & Rep. Lavelle;
Rep. Willis

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 4

TO

SENATE BILL NO. 30

1 AMEND Senate Bill No. 30 by striking lines 1 through 6 in their entirety.

2 FURTHER AMEND Senate Bill No. 30 by inserting the following between lines 13 and 14:

3 “§ 201A. Legislative intent.

4 It is the intent of the Delaware General Assembly to recognize civil unions in Delaware and that parties to a civil
5 union shall enjoy all the same rights, benefits, protections, and shall be subject to all the same responsibilities, as married
6 persons under Delaware law. By establishing the status of civil unions in Delaware, it is not the legislature’s intent to
7 revise the definition or eligibility requirements of marriage under Chapter 1, Title 13 of the Delaware Code.”.

SYNOPSIS

This amendment makes the Legislative intent found in the WHEREAS clause part of the text in the new Chapter 2 of Title 13.



DEFEATED

SPONSOR: Rep. Briggs King

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 5

TO

SENATE BILL NO. 30

1 AMEND Senate Bill No. 30 by inserting the following between lines 267 and 268:

2 "§ 214A. Civil Union rights and protections.

3 A civil union entitles parties to exercise the following rights and enjoy the following protections, unless
4 specifically excluded by this chapter:

5 (1) The right to acquire, hold title to, own jointly, or transfer inter vivos or at death real or personal property as
6 joint tenants with right of survivorship or as tenants in common;

7 (2) The right to be designated as a beneficiary, payee, or owner as a trustee named in an inter vivos or
8 testamentary trust for the purposes of a non-probate transfer on death;

9 (3) For purposes of the following benefits, the right to be designated as a beneficiary and recognized as a
10 dependent so long as notice is given in accordance with any applicable statute, rule, contract, policy, procedure, or other
11 government document of the following benefits:

12 a. public employees' retirement systems;

13 b. local government firefighter and police pensions;

14 c. insurance policies for life insurance coverage; and

15 d. health insurance policies or health coverage if the employer of the designated beneficiary elects to
16 provide coverage for designated beneficiaries as dependents;

17 (4) The right to petition for and have priority for appointment as a conservator, guardian, or personal
18 representative for the other party to the agreement;

19 (5) The right to visitation by the other party to the agreement in a hospital, nursing home, hospice, or similar
20 health care facility in which a party to the agreement resides or is receiving care, including the right to initiate a formal
21 complaint alleging a violation of the rights of nursing home patients;

- 22 (6) The right to act as a proxy decision-maker or surrogate decision-maker to make medical treatment
23 decisions for the other party to the agreement;
- 24 (7) The right to receive notice of the withholding or withdrawal of life-sustaining procedures for the other
25 party to the agreement and the right to challenge the validity of a declaration as to medical or surgical treatment of the other
26 party to the agreement;
- 27 (8) The right, with respect to the other party to the agreement, to act as an agent and to make, revoke, or
28 object to anatomical gifts pursuant to the “Revised Uniform Anatomical Gift Act”, Chapter 27 of Title 15;
- 29 (9) The right to have standing to sue for wrongful death on behalf of the other party to the agreement; and
- 30 (10) The right to direct the disposition of the other party to the agreement’s last remains.”.

SYNOPSIS

This amendment lists the various rights and protections that go along with entering into a civil union.



DEFEATED

SPONSOR: Rep. Willis & Rep. Kenton & Rep. Wilson

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 6

TO

SENATE BILL NO. 30

1 AMEND Senate Bill No. 30 by deleting Section 5 in its entirety and by substituting in lieu thereof a new Section 5
2 to read as follows:
3 "Section 5. This Act shall become effective upon a majority of citizens voting in this State to implement
4 this Act. Contingent upon the General Assembly providing funding, the State Commissioner of Elections shall insure that a
5 statewide referendum is held on this issue on November 8, 2011. The Department shall list as an issue on the ballot, the
6 question as to whether the Civil Union and Equality Act of 2011 should be implemented. Contingent upon the
7 abovementioned funding and passage of this referendum, this Act shall become effective at 10:00 a.m. on January 1, 2012.
8 In the event this referendum is not funded by the General Assembly, a referendum on this issue shall be held on November
9 6, 2012. Contingent upon passage of a November 6, 2012 referendum, this Act, in such event, shall become effective at
10 10:00am on January 1, 2013."

SYNOPSIS

This Bill requires a Statewide referendum to be held in November, 2011, if funded, to determine if the Act becomes effective. If not specifically funded, then a statewide referendum will be held on November 6, 2012. This would eliminate additional costs since the referendum issue would simply be another ballot item in a general election.



DEFEATED

SPONSOR: Rep. Wilson

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 7

TO

SENATE BILL NO. 30

1 AMEND Senate Bill No. 30 by inserting the following between lines 121 and 122:

2 “(h) Clerks of the peace shall issue civil union licenses for \$10 each, \$4 of which shall be deposited by the
3 clerks of the peace with the Department of Health and Social Services for each license delivered to the various clerks of the
4 peace to defray the costs of the various forms and certificates required by this chapter. No charge shall be made for
5 investigation to establish the validity of any papers required of certain applicants for civil union licenses under this chapter,
6 nor shall any person in this State make any charge for the execution of any papers required under this chapter, except that
7 this shall not be construed to prohibit a charge for the execution of any affidavits that are required under this chapter, and
8 except that a charge may be made for the civil union license as provided in this chapter.”.

9 FURTHER AMEND Senate Bill No. 30 by adding the following to the Enactment Clause of this bill:

10 “(Two-thirds of all members elected to each house thereof concurring therein):”.

SYNOPSIS

Senate Bill No. 30 is based on Chapter 1 of Title 13 re Marriage. Most sections of the bill largely mirror the laws on marriage, but with the word “marriage” replaced by “civil union”. For some reason, § 108 of Title 13 was not included. Section 108 contains “Fee for issuing marriage licenses; prohibition of other charges.”

The first section of this amendment adds a fee for issuing civil union licenses. It is identical to the fee for issuing marriage licenses.

The second section of the amendment adds a 3/5 vote requirement to the Enactment Clause because of the new license fee for a civil union license.



PASSED

SPONSOR: Rep. Wilson

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1

TO

HOUSE AMENDMENT NO. 7

TO

SENATE BILL NO. 30

- 1 AMEND House Amendment No. 7 to Senate Bill No. 30 by deleting line 10 and substituting in lieu thereof:
- 2 “(Three-fifths of all members elected to each house thereof concurring therein):”.

SYNOPSIS

This amendment corrects the vote requirement.



DEFEATED

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY
SPONSOR: Rep. D. Short

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 8

TO

SENATE BILL NO. 30

1 AMEND Senate Bill No. 30 by striking lines 1 through 296 and inserting in lieu thereof the following:

2 "Section 1. Short Title

3 This article shall be known and may be cited as the "Delaware Designated Beneficiary Agreement Act".

4 Section 2. Legislative declaration.

5 (1) The general assembly finds and determines that:

6 (a) Not all Delaware residents are adequately covered by the provisions of the "Delaware Probate Code",
7 and other provisions of Delaware law.

8 (b) A body of law has been enacted to operate by default in situations in which individuals do not prepare
9 estate plans. However, failure to plan for disability, incapacity, or death places people at the mercy of state laws
10 that may vest the power to act in such situations in persons other than those they would wish to have exercise those
11 powers.

12 (c) The power of individuals to care for one another and take action to be personally responsible for
13 themselves and their loved ones is of tremendous societal benefit, enabling advanced planning and reducing
14 reliance on public programs and services.

15 (2) Therefore, the general assembly declares that:

16 (a) The public policy of the state should encourage residents to execute appropriate legal documents to
17 effectuate their wishes;

18 (b) The purposes of this article are to:

19 (I) Make existing laws relating to health care, medical emergencies, incapacity, death, and administration
20 of decedent's estates available to more persons through a process of documenting designated beneficiary agreements; and
21 (II) Allow individuals to elect to have certain default provisions in state statutes provide rights, benefits,
22 and protections to a designated beneficiary in situations in which no valid and enforceable estate planning documents exist.
23 (c) It is the intent of the general assembly that this article be liberally construed to give effect to the purposes
24 stated in this article.

25 Section 3. Definitions.

26 As used in this article, unless the context otherwise requires:

27 (1) 'Designated beneficiary' means a person who has entered into a designated beneficiary agreement pursuant to
28 this article.

29 (2) 'Designated beneficiary agreement' means an agreement that is entered into pursuant to this article by two
30 people for the purpose of designating each person as the beneficiary of the other person and for the purpose of ensuring that
31 each person has certain rights and financial protections based upon the designation.

32 (3) 'Superseding legal document' means a legal document, regardless of the date of execution, that is valid and
33 enforceable and conflicts with all or a portion of a designated beneficiary agreement and, therefore, causes the designated
34 beneficiary agreement in whole or in part to be replaced or set aside. To the extent there is a conflict between a superseding
35 legal document and a designated beneficiary agreement, the superseding legal document controls. A superseding legal
36 document may include, but need not be limited to, any of the following:

- 37 (a) A will;
- 38 (b) A codicil;
- 39 (c) A power of attorney;
- 40 (d) A medical durable power of attorney;
- 41 (e) A trust instrument;
- 42 (f) A beneficiary designation in an insurance policy or policy of health care coverage;
- 43 (g) A beneficiary designation in a retirement or pension plan;
- 44 (h) A beneficiary designation for a deposit or account, including but not limited to demand, savings, and
45 time deposit accounts;
- 46 (i) A declaration as to medical treatment executed pursuant to article 18 of this title;
- 47 (j) A declaration as to disposition of last remains executed pursuant to article 19 of this title; or
- 48 (k) A marriage license.

Section 4. Requirements for a valid designated beneficiary agreement.

(1) A designated beneficiary agreement shall be legally recognized if:

(a) The parties to the designated beneficiary agreement satisfy all of the following criteria:

(I) Both are at least eighteen years of age;

(II) Both are competent to enter into a contract;

(III) Neither party is married to another person;

(IV) Neither party is a party to another designated beneficiary agreement; and

(V) Both parties enter into the designated beneficiary agreement without force, fraud, or duress;

and

(b) The agreement is in substantial compliance with the requirements set forth in this article. For purposes of this article, "substantial compliance" shall mean that the agreement includes the disclaimer contained in section 6, the instructions and headings about how to grant or withhold a right or protection, the statements about the effective date of the agreement and how to record the agreement, the signatures for the two parties, and the acknowledgments for the notary public.

(2) A designated beneficiary agreement is legally sufficient under this article if:

(a) The wording of the designated beneficiary agreement complies substantially with the standard form set forth in section 6 (1);

(b) The designated beneficiary agreement is properly completed and signed;

(c) The designated beneficiary agreement is acknowledged; and

(d) The designated beneficiary agreement is recorded with a recorder of deeds as provided in section 7.

Section 5. Effects and applicability of a designated beneficiary agreement.

(1) A person named as a designated beneficiary in a designated beneficiary agreement shall be entitled to exercise the rights and protections specified in the agreement by virtue of having been so named.

(2) A designated beneficiary agreement that is properly executed and recorded as provided in section 4 (2) shall be valid and legally enforceable in the absence of a superseding legal document that conflicts with the provisions specified in the designated beneficiary agreement.

(3) A designated beneficiary agreement shall entitle the parties to exercise the following rights and enjoy the following protections, unless specifically excluded from the designated beneficiary agreement:

(a) The right to acquire, hold title to, own jointly, or transfer inter vivos or at death real or personal property as joint tenants with right of survivorship or as tenants in common;

79 (b) The right to be designated as a beneficiary, payee, or owner as a trustee named in an inter vivos or testamentary
80 trust for the purposes of a nonprobate transfer on death;

81 (c) For purposes of the following benefits, the right to be designated as a beneficiary and recognized as a
82 dependent so long as notice is given in accordance with any applicable statute, rule, contract, policy, procedure, or other
83 government document of the following benefits:

84 (I) Public employees' retirement systems;

85 (II) Local government firefighter and police pensions;

86 (III) Insurance policies for life insurance coverage; and

87 (IV) Health insurance policies or health coverage if the employer of the designated beneficiary elects to
88 provide coverage for designated beneficiaries as dependents;

89 (d) The right to petition for and have priority for appointment as a conservator, guardian, or personal
90 representative for the other designated beneficiary;

91 (e) The right to visitation by the other designated beneficiary in a hospital, nursing home, hospice, or similar health
92 care facility in which a party to a designated beneficiary resides or is receiving care, including the right to initiate a formal
93 complaint alleging a violation of the rights of nursing home patients;

94 (f) The right to act as a proxy decision-maker or surrogate decision-maker to make medical treatment decisions for
95 the other designated beneficiary;

96 (g) The right to receive notice of the withholding or withdrawal of life-sustaining procedures for the other
97 designated beneficiary and the right to challenge the validity of a declaration as to medical or surgical treatment of the other
98 designated beneficiary;

99 (h) The right, with respect to the other designated beneficiary, to act as an agent and to make, revoke, or object to
100 anatomical gifts pursuant to the "Revised Uniform Anatomical Gift Act" or relevant Delaware statute;

101 (i) The right to inherit real or personal property from the other designated beneficiary through intestate succession;

102 (j) The right to have standing to receive benefits pursuant to the Workers' Compensation laws of Delaware, made
103 on behalf of the other designated beneficiary;

104 (k) The right to have standing to sue for wrongful death on behalf of the other designated beneficiary; and

105 (l) The right to direct the disposition of the other designated beneficiary's last remains.

106 (4) This article shall not be construed to create any rights, protections, or responsibilities for designated
107 beneficiaries that are not specifically enumerated in the designated beneficiary agreement as authorized in this article.