



1 be lawful for a person under the age of sixteen years,  
2 but in no event under the age of fifteen years, to  
3 enter into a civil union, subject to section -3;

4 (3) Neither party at the time does not have any lawful  
5 spouse living; neither party has entered into a civil  
6 union that has not been dissolved;

7 (4) Consent of neither party to the civil union has been  
8 obtained by force, duress, or fraud;

9 (5) Neither of the parties is a person afflicted with any  
10 loathsome disease concealed from, and unknown to, the  
11 other party; and

12 (6) The parties joined in a civil union shall have duly  
13 obtained a license for that purpose from the agent  
14 appointed to grant civil union licenses.

15 **§ -2 Definition of civil union.** Whenever used in the  
16 statutes or other laws of Hawaii, "civil union" means the union  
17 licensed under section -1(6), without regard to gender  
18 limitations.

19 **§ -3 Consent of parent or guardian.** Whenever any person  
20 who is under the age of eighteen is to enter into a civil union,  
21 the written consent of the parents, or guardian or other person  
22 in whose care and custody the person may be, shall accompany the



1 application for a civil union license. No license shall be  
2 issued to any minor who is under the jurisdiction of the family  
3 court without the written consent of a judge of the court.

4       **§ -4 Contracted without the State.** All marriages not  
5 recognized by section 572-3 as marriages, all civil unions, all  
6 domestic partnerships, or any substantially similar contractual  
7 arrangement, which meet the requisites set forth in section  
8 -1 and legal in the jurisdiction where contracted shall be  
9 held legal in the courts of this State as civil unions.

10       **§ -5 Right of domicile, sex or marital status.** The  
11 right of an individual to be or to become a resident domiciled  
12 in this State shall not be denied or abridged because of the  
13 sex, civil union status or marital status of the individual.  
14 The residence of one spouse does not establish the residence of  
15 the other spouse, which shall be determined by the same factors  
16 that apply in determining the residence of any other individual  
17 capable of having an independent residence.

18       **§ -6 Civil union license; agent to grant; fee.** (a) The  
19 department of health shall appoint, and at its pleasure remove,  
20 one or more suitable persons as agents authorized to grant  
21 marriage and civil union licenses under this chapter in each  
22 judicial circuit. The agents may issue marriage and civil union



1 licenses from any state facility when deemed necessary by the  
2 director. Any agent appointed under this subsection and  
3 receiving an application for a marriage or civil union license  
4 shall collect from the applicant for the license \$ , of  
5 which the agent, except those provided for in subsection (b),  
6 shall retain \$ for the agent's benefit and  
7 compensation and shall remit \$ to the director of  
8 health. Upon the receipt of remittances under this subsection,  
9 the director of health shall deposit:

- 10 (1) \$ for each license issued to the credit of  
11 the general fund of the State;
- 12 (2) \$ for each license issued to the credit of  
13 the spouse and child abuse special account established  
14 under section 346-7.5;
- 15 (3) \$ for each license issued to the credit of  
16 the spouse and child abuse special account established  
17 under section 601-3.6; and
- 18 (4) \$ for each license issued to the credit of  
19 the birth defects special fund established under  
20 section 321-426.

21 (b) The department may appoint, as regular employees under  
22 chapter 76, the number of suitable persons as agents authorized



1 to grant marriage and civil union licenses for whom moneys are  
2 available. In the case of these agents, the full amount  
3 collected from applicants shall be remitted to the director of  
4 health. Upon the receipt of remittances under this subsection,  
5 the director of health shall deposit:

6 (1) \$ for each license issued to the credit of  
7 the general fund of the State;

8 (2) \$ for each license issued to the credit of  
9 the spouse and child abuse special account established  
10 under section 346-7.5;

11 (3) \$ for each license issued to the credit of  
12 the spouse and child abuse special account established  
13 under section 601-3.6; and

14 (4) \$ for each license issued to the credit of  
15 the birth defects special fund established under  
16 section 321-426.

17 (c) Every agent appointed under this section may  
18 administer the oaths required by this chapter.

19 (d) The department or its authorized agents shall furnish  
20 to each applicant for a civil union license a brochure  
21 explaining rubella, the risks of infection with rubella during  
22 pregnancy, and how to seek testing and immunization.



1           The department or its authorized agents shall also furnish  
2 to each applicant for a civil union license information, to be  
3 provided by the department, relating to population  
4 stabilization, family planning, birth control, fetal alcohol and  
5 drug syndromes, and acquired immune deficiency syndrome (AIDS),  
6 including the availability of anonymous testing for human  
7 immunodeficiency virus (HIV) infection at alternate test sites;  
8 provided that the information is available.

9           (e) In addition to the fee prescribed under subsection  
10 (a), the agent, except those provided for in subsection (b),  
11 shall collect from the applicant for the license a surcharge of  
12 \$           , of which the agent shall retain the full amount for  
13 the agent's additional benefit and compensation.

14           **§ -7 Application; license; limitations.** To secure a  
15 license to enter into a civil union, the persons applying for  
16 the license shall appear personally before an agent authorized  
17 to grant marriage and civil union licenses and shall file with  
18 the agent an application in writing. The application shall be  
19 accompanied by a statement signed and sworn to by each of the  
20 persons, setting forth: the person's full name, date of birth,  
21 social security number, residence; their relationship, if any;  
22 the full names of parents; and that all prior marriages, civil



1 unions, and domestic partnerships, if any, have been dissolved  
2 by death or dissolution. If all prior marriages or civil unions  
3 or domestic partnerships have been dissolved by death or  
4 dissolution, the statement shall also set forth the date of  
5 death of the last prior spouse or the date and jurisdiction in  
6 which the last decree of dissolution was entered.

7 Any other information consistent with the standard marriage  
8 or civil union certificate as recommended by the Public Health  
9 Service, National Center for Health Statistics, may be requested  
10 for statistical or other purposes, subject to approval of and  
11 modification by the department of health; provided that the  
12 information shall be provided at the option of the applicant and  
13 no applicant shall be denied a license for failure to provide  
14 the information. The agent shall indorse on the application,  
15 over the agent's signature, the date of the filing thereof, and  
16 shall issue a license that shall bear on its face the date of  
17 issuance. Every license shall be valid for thirty days  
18 commencing from and including the date of issuance. After the  
19 thirty-day period, the license shall become void and no  
20 solemnization ceremony shall be performed thereon.

21 It shall be the duty of every person, legally authorized to  
22 grant marriage and civil union licenses, to immediately report



1 the issuance of every civil union license to the agent of the  
2 department of health in the district in which the license is  
3 issued, setting forth all facts required to be stated in the  
4 manner and on the form that the department may prescribe.

5       **§ -8 Persons under age.** Whenever any person who is  
6 under the age of eighteen, whose parents are dead, or who is a  
7 ward of a family court, applies for a civil union license, the  
8 person shall set forth in the statement accompanying the  
9 application, the name of the person's guardian or of any other  
10 person in whose care and custody the person may be.

11       **§ -9 Applicant apparently under age.** If any applicant  
12 for a civil union license appears to any agent to be under the  
13 age of eighteen years, before granting a civil union license,  
14 the agent shall require the production of a certificate of birth  
15 or other satisfactory proof showing the age of the applicant.

16       **§ -10 Private solemnization not unlawful.** Nothing in  
17 this chapter shall be construed to render unlawful, or otherwise  
18 affirmatively punishable at law, the solemnization of  
19 relationships by religious organizations; provided that nothing  
20 in this section shall be construed to confer any of the  
21 benefits, burdens, or obligations under the laws of Hawaii  
22 through the private solemnization.





1           **§ -11 License to solemnize.** It shall not be lawful for  
2 any person to perform solemnization ceremony within the State  
3 without first obtaining from the department of health a license  
4 to solemnize civil unions.

5           **§ -12 Requisites for license to perform the**  
6 **solemnization.** A license to solemnize marriages and civil  
7 unions may be issued to, and the rite may be performed and  
8 solemnized by any minister, priest, or officer of any religious  
9 denomination or society who has been ordained or is authorized  
10 to solemnize civil unions according to the usages of the  
11 denomination or society, or any religious society not having  
12 clergy but providing solemnization in accordance with the rules  
13 and customs of that society, or any justice or judge or  
14 magistrate, active or retired, of a state or federal court in  
15 the State, upon presentation of a civil union license, issued  
16 under this chapter. The person solemnizing may receive the  
17 price stipulated by the parties or the gratification tendered.

18           Nothing in this section shall be construed to require a  
19 person licensed to perform marriage and civil union ceremonies  
20 to perform a marriage or civil union ceremony.

21           **§ -13 Record of solemnization; reported by whom;**  
22 **certified copies.** (a) Every person authorized to solemnize a



1 civil union shall make and preserve a record of every civil  
2 union by the person solemnized, comprising the names of the  
3 parties joined, their place of residence, and the date of their  
4 union.

5 Every person authorized to perform solemnizations, who  
6 neglects to keep a record of any solemnization shall be fined  
7 \$ .

8 (b) It shall be the duty of every person, legally  
9 authorized to perform the solemnization ceremony, to report  
10 within three business days every solemnization, performed by the  
11 person, to the agent of the department of health in the district  
12 in which the solemnization takes place setting forth all facts  
13 required to be stated in a standard certificate of civil union,  
14 the form and contents of which shall be prescribed by the  
15 department of health.

16 (c) The department of health shall deliver one certified  
17 copy of the certificate of solemnization or the contents or any  
18 part thereof as provided in section 338-13 to the persons  
19 joined. The certificate shall be prima facie evidence of the  
20 fact of a civil union in any proceeding in any court.



1           The department of health, upon request, shall furnish to  
2 any applicant additional certified copies of the certificate of  
3 civil union or any part thereof.

4           Copies of the contents of any certificate on file in the  
5 department, certified by the department shall be considered for  
6 all purposes the same as the original.

7           The department may prescribe reasonable fees, if any, to be  
8 paid for certified copies of certificates.

9           **§ -14 Revocation or suspension of licenses to solemnize.**

10 Any license to solemnize civil unions issued pursuant to  
11 section -12 may be revoked or suspended by the department of  
12 health, if the holder of the license has failed to comply with  
13 this chapter or the rules of the department of health.

14           **§ -15 Delivery of records to department of health;**

15 **penalty.** Whenever any agent authorized to grant marriage and  
16 civil union licenses ceases to be an agent, or is directed to do  
17 so by the department of health, or leaves the State, the agent  
18 shall deliver to the department all the agent's records of civil  
19 union licenses.

20           Upon the death of any the agent the records shall be  
21 delivered to the department by the agent's personal  
22 representative or other legal representative.



1           Whenever any person holding a license to perform the  
2 solemnization ceremony is directed to do so by the department,  
3 or whenever the license is canceled or otherwise terminated or  
4 upon the departure from the State of any person, the person  
5 shall deliver to the department all the person's records of  
6 solemnizations, or upon the death of any person records shall be  
7 delivered to the department by the person's personal  
8 representative, or other legal representative.

9           Any person violating this section shall be fined not more  
10 than \$           .

11         **§ -16 Rules.** The director of health may adopt rules  
12 that may be necessary or appropriate to carry out this chapter.

13           **PART II. PROPERTY CONTRACTS, DEBTS, AND LIABILITIES**

14         **§ -21 Presumption of separate property.** There shall be  
15 a rebuttable presumption that all property, both real and  
16 personal, acquired in the name of either of the civil union  
17 partners, without regard to the time of acquisition thereof, is  
18 the separate property of the person in the name of whom the  
19 property has been acquired.

20         **§ -22 Contracts.** A person may make contracts, oral and  
21 written, sealed and unsealed, with the civil union partner, or



1 any other person, in the same manner as if the civil union  
2 partner were single.

3 An agreement between civil union partners providing for  
4 periodic payments for the support and maintenance of one civil  
5 union partner by the other, or for the support, maintenance, and  
6 education of children of the parties, when the agreement is made  
7 in contemplation of divorce or judicial separation, is valid;  
8 provided that the agreement shall be subject to approval by the  
9 court in any subsequent proceeding for divorce or judicial  
10 separation and that future payments under an approved agreement  
11 shall nevertheless be subject to increase, decrease, or  
12 termination from time to time upon application and a showing of  
13 circumstances justifying a modification thereof.

14 All contracts made between civil union partners, whenever  
15 made, and not otherwise invalid because of any other law, shall  
16 be valid.

17 **§ -23 Not liable for partner's debts.** A party to a  
18 civil union is not liable for the debts of the other; nor is a  
19 person's property liable to be taken on execution or other  
20 process against that person's civil union partner.

21 **§ -24 Liabilities.** Both parties of a civil union,  
22 whether joined in this State or in some other jurisdiction, and



1 residing in this State, shall be bound to maintain, provide for,  
2 and support one another during their union, and shall be liable  
3 for all debts contracted by one another for necessaries for  
4 themselves, one another, or their family during the civil union;  
5 provided that when a support or maintenance obligation, however  
6 designated, is imposed upon a spouse under chapter 580 or any  
7 other law, the amount of obligation shall be determined by the  
8 appropriate court on the basis of factors enumerated in section  
9 580-47(a).

10       **§ -25 Separate property.** The real and personal property  
11 of a civil union partner shall remain that person's separate  
12 property, free from the management, control, debts, and  
13 obligations of the other civil union partner. A civil union  
14 partner may receive, receipt for, hold, manage, and dispose of  
15 property, real and personal, in the same manner as if that  
16 person were single.

17       **§ -26 May be personal representative, guardian, trustee,**  
18 **or other fiduciary.** A civil union partner may be a personal  
19 representative, guardian, trustee, custodian, or other fiduciary  
20 and may bind the person's self and the estate the person  
21 represents without any act or assent on the part of the person's  
22 civil union partner.



1           **§ -27 Persons as sureties.** All persons, upon attaining  
2 their majority, and having the necessary property qualifications  
3 required by law, may act, serve, and be sureties on all bonds  
4 and undertakings required under the laws of the State.

5           **§ -28 Suits by and against.** A party to a civil union  
6 contract may sue and be sued in the same manner as if the person  
7 were single.

8           This section shall be construed to authorize tort suits  
9 between civil union partners.

10          **§ -29 Settlement not invalidated.** Nothing contained in  
11 this part shall invalidate any civil union settlement or  
12 contract.

13                   **PART III. HAWAII REVISED STATUTES REFERENCES**

14          **§ -41 Statutory references conformity.** All references  
15 to marital status in the Hawaii Revised Statutes shall apply  
16 equally to civil unions. Every reference in the Hawaii Revised  
17 Statutes to "marriage" or any aspect thereof, shall apply  
18 equally to "civil unions", including, but not limited to: every  
19 reference in the Hawaii Revised Statutes to "married" shall  
20 apply equally to those who have entered into a civil union;  
21 every reference to "husband", "wife" or "spouse" shall apply  
22 equally to a partner in a civil union; every other reference to



1 marital status, parties to a marriage, dissolution, etc., shall  
2 apply equally to civil unions."

3 SECTION 2. The legislative references bureau shall submit  
4 a bill for statutory amendments for the 2008 regular session to  
5 add the term "civil union" to every statute in which the term  
6 "marriage" is used, if appropriate to the intent of the statute;  
7 and to add the term "civil union partners" to every statute in  
8 which the term "married," "husband," "wife," or "spouse" is  
9 used, if appropriate to the intent of the statute.

10 SECTION 3. This Act shall take effect on July 1, 2007.

11

INTRODUCED BY:

Ray L. Hoar  
Heckman  
Clarence K. Dickerson  
V. J. O'Neil  
Brennan Kohrt





**Report Title:**

Civil Unions

**Description:**

Creates a new law to establish civil unions. Extends the same rights and responsibilities of marriage spouses to partners in a civil union.

