

98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2637

Introduced 1/21/2014, by Sen. Kyle McCarter

SYNOPSIS AS INTRODUCED:

750 ILCS 80/Act rep.	
750 ILCS 5/201	from Ch. 40, par. 201
750 ILCS 5/209	from Ch. 40, par. 209
750 ILCS 5/212	from Ch. 40, par. 212
750 ILCS 5/213.2 new	
750 ILCS 5/220 rep.	
750 ILCS 75/60	
750 ILCS 75/65 rep.	

Repeals the Religious Freedom and Marriage Fairness Act. Amends the Illinois Marriage and Dissolution of Marriage Act and the Illinois Religious Freedom Protection and Civil Union Act to make corresponding changes. Effective immediately.

LRB098 15056 HEP 50019 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 (750 ILCS 80/Act rep.)

5 Section 5. The Religious Freedom and Marriage Fairness Act
6 is repealed.

7 Section 905. The Illinois Marriage and Dissolution of
8 Marriage Act is amended by changing Sections 201, 209, and 212
9 and by adding Section 213.2 as follows:

10 (750 ILCS 5/201) (from Ch. 40, par. 201)

11 (Text of Section after amendment by P.A. 98-597)

12 Sec. 201. Formalities.) A marriage between ~~2 persons~~ a man
13 and a woman licensed, solemnized and registered as provided in
14 this Act is valid in this State.

15 (Source: P.A. 98-597, eff. 6-1-14.)

16 (750 ILCS 5/209) (from Ch. 40, par. 209)

17 (Text of Section after amendment by P.A. 98-597)

18 Sec. 209. Solemnization and Registration.)

19 (a) A marriage may be solemnized by a judge of a court of
20 record, by a retired judge of a court of record, unless the
21 retired judge was removed from office by the Judicial Inquiry

1 Board, except that a retired judge shall not receive any
2 compensation from the State, a county or any unit of local
3 government in return for the solemnization of a marriage and
4 there shall be no effect upon any pension benefits conferred by
5 the Judges Retirement System of Illinois, by a judge of the
6 Court of Claims, by a county clerk in counties having 2,000,000
7 or more inhabitants, by a public official whose powers include
8 solemnization of marriages, or in accordance with the
9 prescriptions of any religious denomination, Indian Nation or
10 Tribe or Native Group, provided that when such prescriptions
11 require an officiant, the officiant be in good standing with
12 his ~~or her~~ religious denomination, Indian Nation or Tribe or
13 Native Group. Either the person solemnizing the marriage, or,
14 if no individual acting alone solemnized the marriage, both
15 parties to the marriage, shall complete the marriage
16 certificate form and forward it to the county clerk within 10
17 days after such marriage is solemnized.

18 ~~(a 5) Nothing in this Act shall be construed to require any~~
19 ~~religious denomination or Indian Nation or Tribe or Native~~
20 ~~Group, or any minister, clergy, or officiant acting as a~~
21 ~~representative of a religious denomination or Indian Nation or~~
22 ~~Tribe or Native Group, to solemnize any marriage. Instead, any~~
23 ~~religious denomination or Indian Nation or Tribe or Native~~
24 ~~Group, or any minister, clergy, or officiant acting as a~~
25 ~~representative of a religious denomination or Indian Nation or~~
26 ~~Tribe or Native Group is free to choose which marriages it will~~

1 ~~solemnize. Notwithstanding any other law to the contrary, a~~
2 ~~refusal by a religious denomination or Indian Nation or Tribe~~
3 ~~or Native Group, or any minister, clergy, or officiant acting~~
4 ~~as a representative of a religious denomination or Indian~~
5 ~~Nation or Tribe or Native Group to solemnize any marriage under~~
6 ~~this Act shall not create or be the basis for any civil,~~
7 ~~administrative, or criminal penalty, claim, or cause of action.~~

8 ~~(a 10) No church, mosque, synagogue, temple,~~
9 ~~nondenominational ministry, interdenominational or ecumenical~~
10 ~~organization, mission organization, or other organization~~
11 ~~whose principal purpose is the study, practice, or advancement~~
12 ~~of religion is required to provide religious facilities for the~~
13 ~~solemnization ceremony or celebration associated with the~~
14 ~~solemnization ceremony of a marriage if the solemnization~~
15 ~~ceremony or celebration associated with the solemnization~~
16 ~~ceremony is in violation of its religious beliefs. An entity~~
17 ~~identified in this subsection (a 10) shall be immune from any~~
18 ~~civil, administrative, criminal penalty, claim, or cause of~~
19 ~~action based on its refusal to provide religious facilities for~~
20 ~~the solemnization ceremony or celebration associated with the~~
21 ~~solemnization ceremony of a marriage if the solemnization~~
22 ~~ceremony or celebration associated with the solemnization~~
23 ~~ceremony is in violation of its religious beliefs. As used in~~
24 ~~this subsection (a 10), "religious facilities" means~~
25 ~~sanctuaries, parish halls, fellowship halls, and similar~~
26 ~~facilities. "Religious facilities" does not include facilities~~

1 ~~such as businesses, health care facilities, educational~~
2 ~~facilities, or social service agencies.~~

3 (b) The solemnization of the marriage is not invalidated by
4 the fact that the person solemnizing the marriage was not
5 legally qualified to solemnize it, if either party to the
6 marriage believed him ~~or her~~ to be so qualified or by the fact
7 that the marriage was inadvertently solemnized in a county in
8 Illinois other than the county where the license was issued.

9 (Source: P.A. 98-597, eff. 6-1-14.)

10 (750 ILCS 5/212) (from Ch. 40, par. 212)

11 (Text of Section after amendment by P.A. 98-597)

12 Sec. 212. Prohibited Marriages.

13 (a) The following marriages are prohibited:

14 (1) a marriage entered into prior to the dissolution of
15 an earlier marriage, ~~civil union, or substantially similar~~
16 ~~legal relationship~~ of one of the parties, ~~unless the~~
17 ~~parties to the marriage are the same as the parties to a~~
18 ~~civil union and are seeking to convert their civil union to~~
19 ~~a marriage pursuant to Section 65 of the Illinois Religious~~
20 ~~Freedom Protection and Civil Union Act;~~

21 (2) a marriage between an ancestor and a descendant or
22 between ~~siblings~~ a brother and a sister, whether the
23 relationship is by the half or the whole blood or by
24 adoption;

25 (3) a marriage between an uncle and a niece, ~~between an~~

1 ~~uncle and a nephew, or~~ between an aunt and a nephew, ~~or~~
2 ~~between an aunt and a niece,~~ whether the relationship is by
3 the half or the whole blood;

4 (4) a marriage between cousins of the first degree;
5 however, a marriage between first cousins is not prohibited
6 if:

7 (i) both parties are 50 years of age or older; or

8 (ii) either party, at the time of application for a
9 marriage license, presents for filing with the county
10 clerk of the county in which the marriage is to be
11 solemnized, a certificate signed by a licensed
12 physician stating that the party to the proposed
13 marriage is permanently and irreversibly sterile;

14 (5) ~~(blank).~~ a marriage between 2 individuals of the
15 same sex.

16 (b) Parties to a marriage prohibited under subsection (a)
17 of this Section who cohabit after removal of the impediment are
18 lawfully married as of the date of the removal of the
19 impediment.

20 (c) Children born or adopted of a prohibited or common law
21 marriage are the lawful children of the parties.

22 (Source: P.A. 98-597, eff. 6-1-14.)

23 (750 ILCS 5/213.2 new)

24 Sec. 213.2. Same-sex marriages; public policy. A marriage
25 between 2 individuals of the same sex is contrary to the public

1 policy of this State.

2 (750 ILCS 5/220 rep.)

3 Section 910. The Illinois Marriage and Dissolution of
4 Marriage Act is amended by repealing Section 220.

5 Section 915. The Illinois Religious Freedom Protection and
6 Civil Union Act is amended by changing Section 60 as follows:

7 (750 ILCS 75/60)

8 (Text of Section after amendment by P.A. 98-597)

9 Sec. 60. ~~Respect for marriages and civil unions entered~~
10 ~~into in other jurisdictions~~ Reciprocity. A marriage between
11 persons of the same sex, a civil union, or a substantially
12 similar legal relationship other than common law marriage,
13 legally entered into in another jurisdiction, shall be
14 recognized in Illinois as a civil union. ~~A marriage, whether of~~
15 ~~the same sex or different sexes and providing that it is not a~~
16 ~~common law marriage, legally entered into in another~~
17 ~~jurisdiction, shall be recognized in this State as a marriage~~
18 ~~in accordance with the provisions of the Illinois Marriage and~~
19 ~~Dissolution of Marriage Act, except that Section 216 of the~~
20 ~~Illinois Marriage and Dissolution of Marriage Act shall not~~
21 ~~apply to marriages of same sex couples validly entered into in~~
22 ~~another jurisdiction.~~

23 (Source: P.A. 98-597, eff. 6-1-14.)

1 (750 ILCS 75/65 rep.)

2 Section 920. The Illinois Religious Freedom Protection and
3 Civil Union Act is amended by repealing Section 65.

4 Section 995. No acceleration or delay. Where this Act makes
5 changes in a statute that is represented in this Act by text
6 that is not yet or no longer in effect (for example, a Section
7 represented by multiple versions), the use of that text does
8 not accelerate or delay the taking effect of (i) the changes
9 made by this Act or (ii) provisions derived from any other
10 Public Act.

11 Section 999. Effective date. This Act takes effect upon
12 becoming law.