



# Senate

General Assembly

**File No. 680**

January Session, 2009

Substitute Senate Bill No. 899

*Senate, April 16, 2009*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT IMPLEMENTING THE GUARANTEE OF EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR SAME SEX COUPLES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) A marriage, or a  
2 relationship that provides substantially the same rights, benefits and  
3 responsibilities as a marriage, between two persons entered into in  
4 another state or jurisdiction and recognized as valid by such other state  
5 or jurisdiction shall be recognized as a valid marriage in this state,  
6 provided such marriage or relationship is not expressly prohibited by  
7 statute in this state.

8 Sec. 2. (NEW) (*Effective from passage*) A marriage between two  
9 persons entered into in this state and recognized as valid in this state  
10 may be recognized as a marriage, or a relationship that provides  
11 substantially the same rights, benefits and responsibilities as a  
12 marriage, in another state or jurisdiction if one or both persons travel  
13 to or reside in such other state or jurisdiction.

14 Sec. 3. Section 46b-20 of the general statutes is repealed and the  
15 following is substituted in lieu thereof (*Effective from passage*):

16 As used in this chapter:

17 [(a)] (1) "Registrar" means the registrar of vital statistics;

18 [(b)] (2) "Applicant" means applicant for a marriage license;

19 [(c)] (3) "License" means marriage license; and

20 (4) "Marriage" means the legal union of two persons.

21 Sec. 4. (NEW) (*Effective from passage*) A person is eligible to marry if  
22 such person is:

23 (1) Not a party to another marriage, or a relationship that provides  
24 substantially the same rights, benefits and responsibilities as a  
25 marriage, entered into in this state or another state or jurisdiction,  
26 unless the parties to the marriage will be the same as the parties to  
27 such other marriage or relationship;

28 (2) Except as provided in section 46b-30 of the general statutes, at  
29 least eighteen years of age;

30 (3) Except as provided in section 46b-29 of the general statutes, not  
31 under the supervision or control of a conservator; and

32 (4) Not prohibited from entering into a marriage pursuant to section  
33 46b-21 of the general statutes, as amended by this act.

34 Sec. 5. Section 46b-25 of the general statutes is repealed and the  
35 following is substituted in lieu thereof (*Effective from passage*):

36 No license may be issued by the registrar until both persons have  
37 appeared before the registrar and made application for a license. The  
38 registrar shall issue a license to any two persons eligible to marry  
39 under this chapter and section 4 of this act. The license shall be  
40 completed in its entirety, dated, signed and sworn to by each applicant

41 and shall state each applicant's name, age, race, birthplace, residence,  
42 whether single, widowed or divorced and whether under the  
43 supervision or control of a conservator or guardian. The Social Security  
44 numbers of [the bride and the groom] both persons shall be recorded  
45 in the "administrative purposes" section of the license. If the license is  
46 signed and sworn to by the applicants on different dates, the earlier  
47 date shall be deemed the date of application.

48 Sec. 6. Section 46b-21 of the general statutes is repealed and the  
49 following is substituted in lieu thereof (*Effective from passage*):

50 [No man may marry his mother, grandmother, daughter,  
51 granddaughter, sister, aunt, niece, stepmother or stepdaughter, and no  
52 woman may marry her father, grandfather, son, grandson, brother,  
53 uncle, nephew, stepfather or stepson.] No person may marry such  
54 person's parent, grandparent, child, grandchild, sibling, parent's  
55 sibling, sibling's child, stepparent or stepchild. Any marriage within  
56 these degrees is void.

57 Sec. 7. (NEW) (*Effective from passage*) (a) No member of the clergy  
58 authorized to join persons in marriage pursuant to section 46b-22 of  
59 the general statutes shall be required to solemnize any marriage in  
60 violation of his or her right to the free exercise of religion guaranteed  
61 by the first amendment to the United States Constitution or section 3 of  
62 article first of the Constitution of the state.

63 (b) No church or qualified church-controlled organization, as  
64 defined in 26 USC 3121, shall be required to participate in a ceremony  
65 solemnizing a marriage in violation of the religious beliefs of that  
66 church or qualified church-controlled organization.

67 Sec. 8. (NEW) (*Effective from passage*) Wherever in the general  
68 statutes or the public acts the term "husband", "wife", "groom", "bride",  
69 "widower" or "widow" is used, such term shall be deemed to include  
70 one party to a marriage between two persons of the same sex.

71 Sec. 9. Section 45a-727a of the general statutes is repealed and the

72 following is substituted in lieu thereof (*Effective from passage*):

73 The General Assembly finds that:

74 (1) The best interests of a child are promoted by having persons in  
75 the child's life who manifest a deep concern for the child's growth and  
76 development;

77 (2) The best interests of a child are promoted when a child has as  
78 many persons loving and caring for the child as possible; and

79 (3) The best interests of a child are promoted when the child is part  
80 of a loving, supportive and stable family, whether that family is a  
81 nuclear, extended, split, blended, single parent, adoptive or foster  
82 family. [; and]

83 [(4) It is further found that the current public policy of the state of  
84 Connecticut is now limited to a marriage between a man and a  
85 woman.]

86 Sec. 10. Section 46b-38nn of the general statutes is repealed and the  
87 following is substituted in lieu thereof (*Effective from passage*):

88 Parties to a civil union shall have all the same benefits, protections  
89 and responsibilities under law, whether derived from the general  
90 statutes, administrative regulations or court rules, policy, common law  
91 or any other source of civil law, as are granted to spouses in a  
92 marriage. [, which is defined as the union of one man and one  
93 woman.]

94 Sec. 11. (NEW) (*Effective from passage*) (a) On and after the effective  
95 date of this section and prior to October 1, 2010, two persons who are  
96 parties to a civil union entered into pursuant to sections 46b-38aa to  
97 46b-38oo, inclusive, of the general statutes, as amended by this act,  
98 may apply for and be issued a marriage license, provided such persons  
99 are otherwise eligible to marry under section 4 of this act and chapter  
100 815e of the general statutes and the parties to the marriage will be the  
101 same as the parties to the civil union.

102 (b) After the celebration of such marriage and upon the recording of  
103 the license certificate or notarized affidavit with the registrar of vital  
104 statistics of the town where the marriage took place pursuant to  
105 section 46b-34 of the general statutes, the civil union of such persons  
106 shall be merged into the marriage by operation of law as of the date of  
107 the marriage stated in the certificate or affidavit.

108 Sec. 12. (NEW) (*Effective from passage*) (a) Two persons who are  
109 parties to a civil union established pursuant to sections 46b-38aa to  
110 46b-38oo, inclusive, of the general statutes, as amended by this act, that  
111 has not been dissolved or annulled by the parties or merged into a  
112 marriage by operation of law under section 11 of this act as of October  
113 1, 2010, shall be deemed to be married under chapter 815e of the  
114 general statutes, as amended by this act, on said date and such civil  
115 union shall be merged into such marriage by operation of law on said  
116 date.

117 (b) Notwithstanding the provisions of subsection (a) of this section,  
118 the parties to a civil union with respect to which a proceeding for  
119 dissolution, annulment or legal separation is pending on October 1,  
120 2010, shall not be deemed to be married on said date and such civil  
121 union shall not be merged into such marriage by operation of law but  
122 shall continue to be governed by the provisions of the general statutes  
123 applicable to civil unions in effect prior to October 1, 2010.

124 Sec. 13. (NEW) (*Effective from passage*) Nothing in section 11, 12 or 18  
125 of this act shall impair or affect any action or proceeding commenced,  
126 or any right or benefit accrued, or responsibility incurred, by a party to  
127 a civil union prior to October 1, 2010.

128 Sec. 14. Section 46a-81a of the general statutes is repealed and the  
129 following is substituted in lieu thereof (*Effective from passage*):

130 For the purposes of sections 4a-60a, 45a-726a and 46a-81b to [46a-  
131 81r] 46a-81q, inclusive, "sexual orientation" means having a preference  
132 for heterosexuality, homosexuality or bisexuality, having a history of  
133 such preference or being identified with such preference, but excludes

134 any behavior which constitutes a violation of part VI of chapter 952.

135 Sec. 15. Subsection (a) of section 17b-137a of the general statutes is  
136 repealed and the following is substituted in lieu thereof (*Effective*  
137 *October 1, 2010*):

138 (a) The Social Security number of the applicant shall be recorded on  
139 each (1) application for a license, certification or permit to engage in a  
140 profession or occupation regulated pursuant to the provisions of title  
141 19a, 20 or 21; (2) application for a commercial driver's license or  
142 commercial driver's instruction permit completed pursuant to  
143 subsection (a) of section 14-44c; and (3) application for a marriage  
144 license made under section 46b-25, [or for a civil union license under  
145 section 46b-38hh.]

146 Sec. 16. Section 46b-150d of the general statutes is repealed and the  
147 following is substituted in lieu thereof (*Effective October 1, 2010*):

148 An order that a minor is emancipated shall have the following  
149 effects: (1) The minor may consent to medical, dental or psychiatric  
150 care, without parental consent, knowledge or liability; (2) the minor  
151 may enter into a binding contract; (3) the minor may sue and be sued  
152 in such minor's own name; (4) the minor shall be entitled to such  
153 minor's own earnings and shall be free of control by such minor's  
154 parents or guardian; (5) the minor may establish such minor's own  
155 residence; (6) the minor may buy and sell real and personal property;  
156 (7) the minor may not thereafter be the subject of a petition under  
157 section 46b-129 as an abused, dependent, neglected or uncared for  
158 child or youth; (8) the minor may enroll in any school or college,  
159 without parental consent; (9) the minor shall be deemed to be over  
160 eighteen years of age for purposes of securing an operator's license  
161 under section 14-36 and a marriage license under subsection (b) of  
162 section 46b-30; [or a civil union license under section 46b-38jj without  
163 parental consent;] (10) the minor shall be deemed to be over eighteen  
164 years of age for purposes of registering a motor vehicle under section  
165 14-12; (11) the parents of the minor shall no longer be the guardians of  
166 the minor under section 45a-606; (12) the parents of a minor shall be

167 relieved of any obligations respecting such minor's school attendance  
 168 under section 10-184; (13) the parents shall be relieved of all obligation  
 169 to support the minor; (14) the minor shall be emancipated for the  
 170 purposes of parental liability for such minor's acts under section 52-  
 171 572; (15) the minor may execute releases in such minor's own name  
 172 under section 14-118; and (16) the minor may enlist in the armed forces  
 173 of the United States without parental consent.

174 Sec. 17. Section 46a-81r of the general statutes is repealed. (*Effective*  
 175 *from passage*)

176 Sec. 18. Sections 46b-38aa to 46b-38mm, inclusive, section 46b-38nn,  
 177 as amended by this act, and section 46b-38oo of the general statutes are  
 178 repealed. (*Effective October 1, 2010*)

|   |                        |                  |
|---|------------------------|------------------|
| This act shall take effect as follows and shall amend the following sections: |                        |                  |
| Section 1   | <i>from passage</i>    | New section      |
| Sec. 2  | <i>from passage</i>    | New section      |
| Sec. 3  | <i>from passage</i>    | 46b-20           |
| Sec. 4  | <i>from passage</i>    | New section      |
| Sec. 5  | <i>from passage</i>    | 46b-25           |
| Sec. 6  | <i>from passage</i>    | 46b-21           |
| Sec. 7  | <i>from passage</i>    | New section      |
| Sec. 8  | <i>from passage</i>    | New section      |
| Sec. 9  | <i>from passage</i>    | 45a-727a         |
| Sec. 10   | <i>from passage</i>    | 46b-38nn         |
| Sec. 11   | <i>from passage</i>    | New section      |
| Sec. 12   | <i>from passage</i>    | New section      |
| Sec. 13   | <i>from passage</i>    | New section      |
| Sec. 14   | <i>from passage</i>    | 46a-81a          |
| Sec. 15   | <i>October 1, 2010</i> | 17b-137a(a)      |
| Sec. 16   | <i>October 1, 2010</i> | 46b-150d         |
| Sec. 17   | <i>from passage</i>    | Repealer section |
| Sec. 18   | <i>October 1, 2010</i> | Repealer section |

**JUD** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill codifies a decision of the Connecticut Supreme Court and makes other changes that have no fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****SB 899*****AN ACT IMPLEMENTING THE GUARANTEE OF EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR SAME SEX COUPLES.*****SUMMARY:**

This bill redefines “marriage” as the legal union of two persons. On October 1, 2010, it transforms civil unions into marriages unless they have been annulled or the couple has divorced or is in the process of dissolving their relationship. It exempts clergy; churches; and IRS-qualified, church-controlled organizations from officiating or participating in a marriage ceremony that violates their religious freedom or beliefs.

The bill also repeals provisions in current law that:

1. declare that the current public policy of the state is limited to marriage between a man and a woman and
2. define marriage as the union of one man and one woman.

It establishes a rule controlling when marriages or substantially similar relationships formed in other jurisdictions must be recognized in Connecticut and gives other jurisdictions the discretion to recognize marriages and substantially similar relationships formed in Connecticut.

Many of the bill’s provisions conform statutes to the Connecticut Supreme Court’s decision in *Kerrigan v. Dept. of Public Health*, which held that it was unconstitutional to restrict marriage to a man and a woman.

It also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, except the repeal of the civil union statutes and some conforming provisions are effective October 1, 2010.

**§§ 11-13 — CIVIL UNIONS**

Beginning on the date the bill passes and until September 30, 2010, parties to Connecticut civil unions may apply for marriage licenses if they are eligible to marry. After the marriage is solemnized and the license certificate is filed with the appropriate vital statistics registrar, their civil union becomes a marriage by operation of law.

On October 1, 2010, civil unions that have not been dissolved or annulled, or are in the process of being dissolved, merge into marriages by operation of law. The bill states that the mergers do not impair or affect any action or proceeding brought before October 1, 2010, any accrued right or benefit, or any responsibility incurred prior to that date. The relationships that have not merged on October 1, 2010 because of pending dissolution, annulment, or legal separation are governed by the civil union statutes in effect on September 30, 2010.

**§§ 4 — ELIGIBILITY TO MARRY**

The bill's marriage eligibility provisions require that the parties be:

1. not parties to another marriage or substantially similar relationship, except couples who are already married to one another or in substantially similar relationships can marry;
2. at least 18 years of age, unless their parents consent to marriage at age 16 or 17 or a probate judge grants permission to marry at a younger age;
3. not under a conservatorship, unless the conservator consents; and
4. not so closely related that their marriage would be incestuous under Connecticut law.

With the exception of provision (1) above, these requirements are

the same as existing marriage laws.

### **§§ 1& 2 — MARRIAGE RECOGNITION**

The bill requires recognition of marriages or relationships that provide substantially the same rights, benefits, and responsibilities between two people entered into in other jurisdictions and recognized as valid in that jurisdiction. These relationships include same-sex and common law marriages and civil unions. State case law already provides for recognition of common law marriage.

It also allows other states to recognize marriages and substantially similar relationships entered into in Connecticut if the spouse or both spouses travel to or reside in the other jurisdictions, so long as the relationship would be recognized in Connecticut.

### **§ § 17 & 18 — STATUTORY CONSTRUCTION**

The bill repeals a statute that provides that a number of laws should not be construed to:

1. mean that the state condones homosexuality or bisexuality, or any equivalent lifestyle;
2. authorize the promotion of homosexuality or bisexuality in educational institutions or require the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle;
3. authorize or permit the use of numerical goals or quotas or other types of affirmative action programs with respect to homosexuality or bisexuality in the administration or enforcement of a number or laws;
4. authorize the recognition of same-sex marriage; or
5. establish sexual orientation as a specific and separate cultural classification in society.

The bill repeals the civil union statutes, effective October 1, 2010.

**BACKGROUND*****Kerrigan v. Dept. of Public Health***

In *Kerrigan v. Dept. of Public Health*, 289 Conn. 135 (2008), the Connecticut Supreme Court ruled that it was unconstitutional to deny same-sex couples the right to marry. The court's opinion expressly did not affect civil unions.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 30 Nay 10 (03/30/2009)