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QUESTIONS AND ANSWERS ABOUT CONNECTICUT'S TRANSITION FROM CIVIL UNIONS TO MARRIAGE

In October 2009, the Connecticut Supreme Court ruled in *Kerrigan & Mock v. Dept. of Public Health* that it is unconstitutional to exclude same-sex couples from marriage. While *Kerrigan* ordered that the state issue marriage licenses to same-sex couples (which began on November 12, 2009), the Court's decision did not alter the civil union law passed by the Legislature in 2005. The Legislature has now passed, and the Governor has signed, SB 899- a law that makes Connecticut's marriage laws consistent with the *Kerrigan* decision and provides a process for moving from a system in which both civil unions *and* marriage are available to gay and lesbian couples to a system in which only marriage is available. Civil unions will be converted into marriages. This transition will be completed on October 1, 2010. For couples currently in civil unions, there is no cause for concern. Your legal rights and responsibilities as a couple under Connecticut law are the same in a civil union and a marriage. What will change are not your legal rights, but the designation of your legal status under Connecticut law. Here are some common questions and answers about the bill's impact on you.

How much longer will civil unions be available in Connecticut?

Technically, the last day for the issuance of civil union licenses in Connecticut is September 30, 2010. As explained below, however, there is no substantial reason to enter into a civil union between now and September 30, 2010.

I have a civil union. What happens to it if I don't marry my civil union spouse by October 1, 2010?

If you have a civil union entered into in Connecticut and you do not marry your civil union spouse prior to October 1, 2010, you are deemed to be married by the state of Connecticut as of October 1, 2010 and your civil union status will cease as of that date. There is, however, no provision in the law for the clerks to issue you a new marriage certificate when this transition occurs.

There is one exception to the transformation of an existing civil union into a marriage. If you have started a legal proceeding for “dissolution, annulment or legal separation” of your civil union and it is not completed by October 1, 2010, your civil union will not become a marriage. Also, if you have completed a legal dissolution of a civil union before October 1, 2010, no civil union exists that could be converted to a marriage as of that date.

What if I entered into a civil union and then subsequently married my civil union spouse prior to October 1, 2010?

If you have a civil union entered into Connecticut and subsequently marry the same person, your civil union will be “merged” into your marriage as of the date of your marriage. Your civil union status will terminate on the date of your marriage.

What is the legal impact on a couple's rights and responsibilities when they were in a civil union that becomes a marriage?

The merger of your civil union into a marriage will have no effect on your legal right and responsibilities under Connecticut law. This is because the civil union law grants to same-sex couples “all the same benefits, protections and responsibilities under law ... as are granted spouses in a marriage.” SB 899 emphasizes this point by providing that the provisions of the bill do not “impair ... any right or benefit accrued, or responsibility incurred, by a party to a civil union prior to October 1, 2010.” For example, both parties to a civil union are the presumed parents of a child born to one of them during the civil union. That legal presumption will not change when the civil union merges into a marriage. Similarly, the length of a couple's marriage for legal purposes will start from the date of the civil union that merged into a marriage.

Since civil unions are ending on October 1, 2010, is there any point to getting a civil union now instead of or in addition to a marriage?

Unless you particularly want a civil union for some personal reason, there is no benefit to getting a civil union now with respect to your legal rights under Connecticut law. Some people may want a civil union because they will be traveling to a state, such as California, that will not recognize a marriage, but will recognize a civil union or other status that provides substantially all the legal rights of marriage. However, if this is the case, starting October 1, 2010 your Connecticut civil union will no longer exist as a legal status and you will have to enter into a civil union in another state in order to maintain that status going forward.

I entered into a civil union in another state, not Connecticut. Does SB 899 affect my civil union?

No. The provisions of SB 899 for a transition from civil unions to marriage apply only to civil unions entered into in Connecticut. SB 899 does not terminate a civil union entered into in another state and it will continue to exist on October 1, 2010 and after. There is no bar to a person with an out-of-state civil union also marrying the same person in Connecticut. People with out-of-state civil unions may have both statuses after October 1, 2010.

What does SB 899 provide regarding Connecticut's recognition of civil unions and equivalent statuses entered into in another state?

If you have a civil union from another state, SB 899 clarifies that Connecticut will grant you the same rights and benefits, and hold you to the same responsibilities, as a married couple in Connecticut. So, for example, if you have a civil union from Vermont, New Jersey or New Hampshire, or a registered domestic partnership from California or Washington, Connecticut law will treat you in the same manner as if you were married in Connecticut.

Does SB 899 address recognition of Connecticut marriages by other states?

SB 899 requests that other states recognize and respect all valid marriages entered into in Connecticut, including marriages of same-sex couples, even if it means respecting your Connecticut marriage by treating it as if it carried a different name, such as "civil union" or "registered domestic partnership." It is important to keep in mind, however, that it is the courts in other states that determine which out-of-state marriages to recognize. You cannot rely on this provision to ensure recognition of your Connecticut marriage in another state. Your Connecticut marriage will currently be respected as a marriage in Massachusetts, Iowa, Vermont and most

likely New York and we expect the list will continue to grow. There is, however, uncertainty as to how other states will treat the marriage of a same-sex couple. For more information, see GLAD's publication "How to Get Married in Connecticut."

I read that SB 899 removed antigay language from Connecticut laws. What exactly does that mean?

In 1991, the Connecticut Legislature passed a law prohibiting discrimination based on sexual orientation in employment, public accommodations, housing and other areas. Unfortunately, as a political compromise to ensure passage of these important protections, that legislation included additional language that had no legal effect but which demeaned lesbian and gay people. This language included statements that the law shall not be construed to mean that Connecticut "condones homosexuality or bisexuality or any equivalent lifestyle" or "to authorize the promotion of homosexuality" in schools or to "require the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle." It also included language that the law shall not be construed to "authorize the recognition of or the right of marriage" among same-sex couples. *See Connecticut General Statutes § 46a-81r. In Kerrigan*, the Supreme Court declared that this language serves no purpose other than to express antigay bias and "represents a kind of state-sponsored disapproval of same-sex relationships." *Kerrigan & Mock v. Dept. of Health*, 289 Conn. 135, 205 (2008). In response, SB 899 repealed § 46a-81r in its entirety.

I heard that SB 899 made some provisions about religious institutions? What do these provisions do?

First, SB 899 makes explicit the current constitutional requirement that no clergy are required to solemnize any marriage that is contrary to their religious teachings and practices.

Second, SB 899 provides that a “religious organization, association, or society” does not have to make its facilities available for “the solemnization or celebration of a marriage” if to do so would violate its religious beliefs. So, for example, even if a church rents its hall to the general public for weddings, it would not have to do so for a same-sex couple. In addition, this provision also applies to a narrow class of nonprofit institutions that can prove that they are “operated, supervised or controlled by or in conjunction with a religious organization, association, or society.” At the same time, individuals and secular businesses who are open to the general public --e.g., inns, photographers-- are subject to Connecticut’s non-discrimination laws.

Finally, SB 899 also provides that the civil marriage laws do not affect the ability of fraternal benefit societies to determine eligibility for admission of its members. It also provides that the civil marriage laws do not require any such society that is “operated, supervised or controlled by or in connection with a religious organization to provide insurance benefits to any person” if to do so would violate the society’s constitutional rights to free exercise of religion.

This document is intended to provide general information only and is not intended to provide legal advice as to anyone’s specific situation. Moreover, the law is constantly changing and this publication is based upon the information that is known to us as of this printing. For guidance on your particular situation, you must consult a lawyer. You should not act independently on this information. The provision of this information is not meant to create an attorney-client relationship. Check our website, www.glad.org, for the latest information.

If you have questions about this publication, other legal issues or need lawyer referrals, call GLAD’s Legal InfoLine weekdays between 1:30 and 4:30 p.m. at: (800) 455-GLAD (4523) or (617) 426-1350.

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