

HB0438/833726/1

BY: Delegate Dwyer

AMENDMENTS TO HOUSE BILL 438
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “Family Law – Civil Unions”.

On pages 1 and 2, strike beginning with “altering” in line 3 on page 1 down through “freedom” in line 2 on page 2 and substitute “authorizing certain parties to enter into civil unions in the State; establishing that certain provisions relating to marriages apply to civil unions; establishing that a civil union entered into in another jurisdiction that is valid under the laws of that jurisdiction is valid in this State; establishing that State and local laws that apply to spouses apply to parties who have entered into a civil union; applying certain spousal support and domestic relations provisions to civil unions; establishing that the rights of parties to a civil union with respect to a child of whom either becomes the natural parent during the term of the civil union are the same as those of a married couple; authorizing parties to a civil union to modify the terms and conditions of their civil union in a certain manner; specifying a nonexclusive list of legal benefits, protections, and responsibilities of spouses that apply in the same manner to parties to a civil union; defining a certain term; providing for the construction of this Act; and generally relating to civil unions”.

On page 2, and strike in their entirety lines 3 through 7, inclusive, and substitute:

“BY adding to

Article – Family Law

Section 2.5–101 through 2.5–304 to be under the new title “Title 2.5. Civil Unions”

Annotated Code of Maryland

(2006 Replacement Volume and 2011 Supplement)”.

(Over)

AMENDMENT NO. 2

On pages 2 through 6, strike in their entirety the lines beginning with line 11 on page 2 through line 11 on page 6, inclusive, and substitute:

“TITLE 2.5. CIVIL UNIONS.

SUBTITLE 1. DEFINITIONS; LEGISLATIVE FINDINGS AND DECLARATIONS.

2.5-101.

IN THIS SUBTITLE, “CIVIL UNION” MEANS THE LEGALLY RECOGNIZED UNION OF TWO ELIGIBLE INDIVIDUALS IN ACCORDANCE WITH THIS TITLE.

2.5-102.

(A) THIS TITLE MAY NOT BE CONSTRUED TO REQUIRE AN OFFICIAL OF A RELIGIOUS INSTITUTION OR BODY AUTHORIZED TO SOLEMNIZE MARRIAGES TO SOLEMNIZE ANY CIVIL UNION IN VIOLATION OF THE RIGHT TO FREE EXERCISE OF RELIGION GUARANTEED BY THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION AND BY THE MARYLAND CONSTITUTION AND THE MARYLAND DECLARATION OF RIGHTS.

(B) THIS TITLE MAY NOT BE CONSTRUED TO PROHIBIT THE SOLEMNIZATION OF ANY MARRIAGE BY AN OFFICIAL OF A RELIGIOUS INSTITUTION OR BODY AUTHORIZED TO SOLEMNIZE MARRIAGES.

SUBTITLE 2. GENERAL PROVISIONS.

2.5-201.

(A) TWO PARTIES MAY ENTER INTO A CIVIL UNION IN THE STATE IF EACH PARTY:

(1) IS NOT A PARTY TO ANOTHER CIVIL UNION OR MARRIAGE; AND

(2) IS AT LEAST 18 YEARS OLD.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE PROVISIONS THAT APPLY TO MARRIAGES UNDER TITLE 2 OF THIS ARTICLE APPLY TO CIVIL UNIONS.

(C) A CIVIL UNION ENTERED INTO IN ANOTHER JURISDICTION THAT IS VALID UNDER THE LAWS OF THAT JURISDICTION SHALL BE VALID IN THIS STATE.

(D) AN INDIVIDUAL WHO IS A PARTY TO A CIVIL UNION MAY NOT MARRY AN INDIVIDUAL WHO IS NOT A PARTY TO THE CIVIL UNION.

SUBTITLE 3. BENEFITS, PROTECTIONS, AND RESPONSIBILITIES OF PARTIES TO A CIVIL UNION.

2.5-301.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, STATE AND LOCAL LAWS THAT APPLY TO SPOUSES SHALL APPLY TO PARTIES WHO HAVE ENTERED INTO A CIVIL UNION UNDER THIS TITLE.

2.5-302.

A PARTY TO A CIVIL UNION SHALL BE INCLUDED IN ANY DEFINITION OR USE OF THE TERMS “SPOUSE”, “HUSBAND”, “WIFE”, “FAMILY”, “IMMEDIATE FAMILY”, “DEPENDENT”, “NEXT OF KIN”, AND OTHER TERMS THAT DENOTE THE SPOUSAL RELATIONSHIP AS THESE TERMS ARE USED THROUGHOUT THE LAW.

2.5-303.

(A) PARTIES TO A CIVIL UNION SHALL BE RESPONSIBLE FOR THE SUPPORT OF EACH OTHER TO THE SAME DEGREE AND IN THE SAME MANNER AS PRESCRIBED UNDER THE LAW FOR MARRIED INDIVIDUALS.

(B) PARTIES TO A CIVIL UNION SHALL BE SUBJECT TO THE LAW OF DOMESTIC RELATIONS, INCLUDING ANNULMENT, SEPARATION AND DIVORCE, CHILD CUSTODY, VISITATION, AND SUPPORT, ALIMONY, AND PROPERTY DISPOSITION TO THE SAME DEGREE AND IN THE SAME MANNER AS PRESCRIBED UNDER THE LAW FOR MARRIED INDIVIDUALS.

(C) THE RIGHTS OF PARTIES TO A CIVIL UNION, WITH RESPECT TO A CHILD OF WHOM EITHER BECOMES THE NATURAL PARENT DURING THE TERM OF THE CIVIL UNION, SHALL BE THE SAME AS THOSE OF A MARRIED COUPLE.

(D) PARTIES TO A CIVIL UNION MAY MODIFY THE TERMS AND CONDITIONS OF THEIR CIVIL UNION IN THE SAME MANNER AND TO THE SAME EXTENT AS MARRIED INDIVIDUALS WHO EXECUTE A PRENUPTIAL AGREEMENT OR OTHER AGREEMENT RECOGNIZED AND ENFORCEABLE UNDER THE LAW.

2.5-304.

THE FOLLOWING IS A NONEXCLUSIVE LIST OF LEGAL BENEFITS, PROTECTIONS, AND RESPONSIBILITIES OF SPOUSES THAT SHALL APPLY IN THE SAME MANNER TO PARTIES TO A CIVIL UNION:

(1) LAWS RELATING TO TITLE, TENURE, DESCENT AND DISTRIBUTION, INTESTATE SUCCESSION, WAIVER OF WILL, SURVIVORSHIP, OR OTHER INCIDENTS OF THE ACQUISITION, OWNERSHIP, OR TRANSFER, INTER VIVOS OR AT DEATH, OF REAL OR PERSONAL PROPERTY, INCLUDING ELIGIBILITY TO HOLD REAL OR PERSONAL PROPERTY AS TENANTS BY THE ENTIRETY AS PROVIDED IN THE ESTATES AND TRUSTS ARTICLE AND THE REAL PROPERTY ARTICLE;

(2) CAUSES OF ACTION RELATED TO OR DEPENDENT ON SPOUSAL STATUS, INCLUDING AN ACTION FOR WRONGFUL DEATH, EMOTIONAL DISTRESS, LOSS OF CONSORTIUM, OR OTHER TORTS OR ACTIONS UNDER CONTRACT RELATED TO OR DEPENDENT ON SPOUSAL STATUS;

(3) PROBATE LAW AND PROCEDURE, AS PROVIDED IN THE ESTATES AND TRUSTS ARTICLE;

(4) ADOPTION LAW AND PROCEDURE AS PROVIDED IN TITLE 5 OF THIS ARTICLE;

(5) GROUP INSURANCE FOR STATE EMPLOYEES AS PROVIDED IN TITLE 2, SUBTITLE 5 OF THE STATE PERSONNEL AND PENSIONS ARTICLE AND CONTINUING CARE CONTRACTS AS PROVIDED IN TITLE 10, SUBTITLE 4 OF THE HUMAN SERVICES ARTICLE;

(6) DOMESTIC VIOLENCE PROTECTIONS AND PROGRAMS AS PROVIDED IN TITLE 4, SUBTITLE 5 OF THIS ARTICLE;

(7) PROHIBITIONS AGAINST DISCRIMINATION BASED ON MARITAL STATUS AS PROVIDED IN TITLE 20 OF THE STATE GOVERNMENT ARTICLE;

(8) VICTIM'S COMPENSATION RIGHTS AS PROVIDED IN TITLE 11 OF THE CRIMINAL PROCEDURE ARTICLE;

(9) WORKERS' COMPENSATION BENEFITS AS PROVIDED IN TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE;

(10) LAWS RELATING TO EMERGENCY AND NONEMERGENCY MEDICAL CARE AND TREATMENT AND HOSPITAL VISITATION AND NOTIFICATION, INCLUDING THE PATIENT'S BILL OF RIGHTS AS PROVIDED IN TITLE 19, SUBTITLE 3, PART VI OF THE HEALTH – GENERAL ARTICLE;

(11) ADVANCE DIRECTIVES AS PROVIDED IN TITLE 5, SUBTITLE 6 OF THE HEALTH – GENERAL ARTICLE;

(12) PUBLIC ASSISTANCE BENEFITS AS PROVIDED IN TITLE 5 OF THE HUMAN SERVICES ARTICLE;

(13) LAWS RELATING TO TAXES IMPOSED BY THE STATE OR A COUNTY OTHER THAN ESTATE TAXES;

(14) LAWS RELATING TO IMMUNITY FROM COMPELLED TESTIMONY AND SPOUSAL TESTIMONIAL IMMUNITY AS PROVIDED IN TITLE 9 OF THE COURTS ARTICLE;

(15) THE SPOUSAL HOMESTEAD PROTECTION RIGHTS AS PROVIDED IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM UNDER TITLE 15, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE AND HOMESTEAD PROPERTY TAX CREDIT AND OTHER PROPERTY TAX EXEMPTIONS AND RELIEF GRANTED TO SPOUSES AS PROVIDED IN THE TAX – PROPERTY ARTICLE;

(16) THE FARMER DISASTER LOAN PROGRAM AS PROVIDED IN TITLE 2, SUBTITLE 6 OF THE AGRICULTURE ARTICLE;

(17) LAWS RELATING TO THE MAKING AND REVOKING OF ANATOMICAL GIFTS BY OTHERS AND THE RIGHTS OF NEXT OF KIN AS PROVIDED IN TITLE 4, SUBTITLE 5 OF THE ESTATES AND TRUSTS ARTICLE;

(18) LEGAL REQUIREMENTS FOR THE ASSIGNMENT OF WAGES AS PROVIDED IN TITLE 15, SUBTITLE 3 OF THE COMMERCIAL LAW ARTICLE; AND

(19) LANDOWNER RIGHTS TO HUNT ON FARMLAND AS PROVIDED IN § 10-301 OF THE NATURAL RESOURCES ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.”.