

Rep. Bates, Rock. 4  
Rep. Sorg, Graf. 3  
Rep. Rowe, Hills. 6  
October 4, 2011  
2011-2669h  
09/10



Amendment to HB 437-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to civil unions and the definition of marriage.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 New Chapter; Civil Unions. Amend RSA by inserting after chapter 457-A the following new  
8 chapter:

9

CHAPTER 457-B

10

CIVIL UNIONS

11

12 457-B:1 Purpose. The purpose of this chapter is to delineate the rights, obligations, and  
13 responsibilities of parties entering a civil union, to establish a process by which a civil union is  
14 established, and to provide a process for the dissolution of a civil union. The legislature finds and  
15 declares that:

16

17 I. Many adults are parties to various kinds of domestic relationships other than marriage.  
18 Some of these relationships are intended to provide mutual support and responsibilities. Those  
19 involved in such caretaking partnerships may desire recognition of their status by the state to gain  
20 access to benefits typically reserved for husbands and wives.

21

22 II. Inclusive civil unions are intended to address the needs of these adults for practical  
23 benefits in matters such as hospital visitation, property, and support obligations. Inclusive civil  
24 union agreements provide the benefits, rights, and responsibilities that most clearly address needs  
25 concerning adult caretaking and affection.

26

27 III. We recognize that the default contract appropriate for these nonstandard relationships  
28 may be different from that which has arisen to address the unique realities of opposite sex unions in  
29 marriage; by creating a distinct and separate status, parties to civil unions can more easily petition  
30 the legislature to address their specific needs as they arise.

31

32 IV. By creating civil unions, the legislature is expressly extending rights and benefits to  
33 unmarried adults while reserving marriage to opposite sex couples. No court or administrative body  
34 shall construe or consider this legislative action as evidence of a public policy which supports same-  
35 sex marriage or would otherwise entitle same-sex couples to that status.



1 457-B:2 Definitions. As used in this act, unless the context otherwise requires, "civil union"  
2 means a contractual agreement that provides reciprocal benefits and obligations to the parties to the  
3 agreement.

4 457-B:3 Validity. A civil union agreement shall be legally recognized if the parties to the  
5 agreement:

6 I. Are unmarried, or if either party is married, is legally separated;

7 II. At least 18 years of age;

8 III. Are competent to enter a contract; and

9 IV. Enter into the agreement without force, fraud, or duress.

10 457-B:4 Rights, Obligations, and Responsibilities. The parties who enter into a civil union  
11 agreement pursuant to this chapter shall be entitled to all the rights and subject to all the  
12 obligations and responsibilities provided for in state law that apply to parties who are joined  
13 pursuant to RSA 457, except as specifically waived by the parties to the agreement or as specifically  
14 excluded by the legislature.

15 457-B:5 Forms, Documents, and Applications; How Performed. The secretary of state shall  
16 develop forms, documents, and applications for registering a civil union, which shall conform to this  
17 chapter. Civil unions shall be entered into pursuant to the analogous provisions of RSA 5-C:41-61.  
18 Nothing in this chapter shall be construed to require a minister or clergyman or clergywoman to  
19 solemnize a civil union.

20 457-B:6 Religious Liberty. No individual, corporation, entity, association, educational  
21 institution, or society shall be penalized or denied benefits under the laws of this state or any  
22 subdivision of this state, in connection with, but not limited to, the application of laws addressing  
23 discrimination in employment, housing, or public accommodations, laws pertaining to licensing,  
24 government grants, contracts, or tax-exempt status, or for otherwise refusing to provide services,  
25 employment, accommodations, advantages, facilities, goods, or privileges related to the  
26 solemnization of any civil union, for refusing to solemnize any civil union, or for refusing to treat as  
27 valid any civil union, where the application of such laws or refusal conflicts with and/or would cause  
28 that individual, corporation, entity, association, educational institution, or society to violate their  
29 sincerely held religious or moral beliefs.

30 457-B:7 Dissolution. Parties who have entered into a civil union who wish to dissolve the civil  
31 union shall do so pursuant to RSA 458.

32 457-B:8 Other Jurisdictions. A civil union, domestic partnership, or a marriage among persons  
33 of the same sex legally contracted outside of New Hampshire shall be recognized as a civil union  
34 agreement in this state, provided that the relationship does not violate the prohibitions of this  
35 chapter.

36 2 Marriage; Marriages Prohibited; Recognition of Out-of-State Marriages. RSA 457:1 through  
37 RSA 457:3 are repealed and reenacted to read as follows:

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1 457:1 Purpose. The legislature finds and declares that:

2 I. Marriage is not a creature of statute but rather a social institution which predates  
3 organized government. As the United States Supreme Court has noted, marriage has roots that are  
4 "older than the Bill of Rights - older than our political parties, older than our school system."  
5 *Griswold v. Connecticut*, 381 U.S. 479, 486 (1965).

6 II. As many scholars and experts have noted, marriage, understood as the legal union of a  
7 man and a woman, serves and supports important social goods in which the government of  
8 New Hampshire has a compelling interest.

9 III. Children can only be conceived naturally through copulation by heterosexual couples.  
10 Because of this biological reality, New Hampshire has a unique, distinct, and compelling interest in  
11 promoting stable and committed marital unions between opposite-sex couples so as to increase the  
12 likelihood that children will be born to and raised by both of their natural parents. No other  
13 domestic relationship presents the same level of state interest.

14 IV. A child has a natural human right to the love, care, and support of his or her own mother  
15 and father, whenever possible. Marriage is the primary social institution that promotes that ideal  
16 and encourages its achievement.

17 457:2 Marriages Prohibited; Men; Women.

18 I. No man shall marry his mother, father's sister, mother's sister, daughter, sister, son's  
19 daughter, daughter's daughter, brother's daughter, sister's daughter, father's brother's daughter,  
20 mother's brother's daughter, father's sister's daughter, mother's sister's daughter, or any other man.

21 II. No woman shall marry her father, father's brother, mother's brother, son, brother, son's  
22 son, daughter's son, brother's son, sister's son, father's brother's son, mother's brother's son, father's  
23 sister's son, mother's sister's son, or any other woman.

24 III. Marriage in New Hampshire is the legally recognized union of one man and one woman.  
25 No person shall be allowed to be married to more than one person at any given time.

26 457:3 Recognition of Out-of-State Marriages. Every marriage legally contracted outside the  
27 state of New Hampshire, which would not be prohibited under RSA 457:2 if contracted in New  
28 Hampshire, shall be recognized as valid in this state for all purposes if or once the contracting  
29 parties are or become permanent residents of this state subsequent to such marriage, and the issue  
30 of any such marriage shall be legitimate. Marriages legally contracted outside the state of  
31 New Hampshire which would be prohibited under RSA 457:2 if contracted in New Hampshire shall  
32 not be legally recognized in this state. Any marriage of New Hampshire residents recognized as  
33 valid in the state prior to the effective date of this section shall continue to be recognized as valid on  
34 or after the effective date of this section.

35 3 Marriageable. Amend RSA 457:4 to read as follows:

36 457:4 Marriageable. No male below the age of 14 years and no female below the age of 13 years  
37 shall be capable of contracting a valid marriage [~~that is entered into by one male and one female~~],



1 and all marriages contracted by such persons shall be null and void. [~~No male below the age of 18~~  
2 ~~and no female below the age of 18 shall be capable of contracting a valid marriage between persons~~  
3 ~~of the same gender, and all marriages contracted by such persons shall be null and void.~~]

4 4 Marriage; Solemnization of Marriage. RSA 457:31 is repealed and reenacted to read as  
5 follows:

6 457:31 Who May Solemnize. Marriage may be solemnized by a justice of the peace as  
7 commissioned in the state; by any minister of the gospel in the state who has been ordained  
8 according to the usage of his or her denomination, resides in the state, and is in regular standing  
9 with the denomination; by any member of the clergy who is not ordained but is engaged in the  
10 service of the religious body to which he or she belongs, resides in the state, after being licensed  
11 therefor by the secretary of state; within his or her parish, by any minister residing out of the state,  
12 but having a pastoral charge wholly or partly in this state; by judges of the United States appointed  
13 pursuant to Article III of the United States Constitution; by bankruptcy judges appointed pursuant  
14 to Article I of the United States Constitution; or by United States magistrate judges appointed  
15 pursuant to federal law.

16 5 Severability. The provisions of this act are severable. If any provision of this act is invalid, or  
17 if any application thereof to any person or circumstance is invalid, the invalidity shall not affect  
18 other provisions or applications which can be given effect without the invalid provision or  
19 application.

20 6 Repeal. The following are repealed:

21 I. RSA 100-A:2-b, relative to marriage.

22 II. RSA 457:31-b, relative to solemnization of marriage; applicability.

23 III. RSA 457:45, relative to civil union recognition.

24 IV. RSA 457:46, relative to obtaining legal status of marriage.

25 7 Effective Date. This act shall take effect 60 days after its passage.



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AMENDED ANALYSIS

This bill establishes civil unions and defines marriage as the union of one man and one woman.