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Excellence In Family Law

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Legal Insights

by Steven L. Hartley

As a result of the new Civil Union Law, an ever-growing population of consenting adults is about to enter the heretofore exclusive maze of family law. Regardless of one's personal politics and position regarding civil unions, family law professionals must be ready to address and assist these soon to be new clients.

Although it will take time to fully implement the new law, and there are sure to be many issues to contend with regarding such, the Family Law system in Hawai'i will adjust and adapt.

For our part, we will be doing everything we can to work with these new clients and do our very best to help with all their family law needs.

We welcome our new civil union clients and look forward to helping them navigate the family law system in new and innovative ways, from civil union agreements to adoption agreements and everything between.

Welcome and Aloha

For more information regarding
Civil Unions, please visit the Hawai'i
Department of Health website at
<http://hawaii.gov/health/vital-records/vital-records/civilunion/index.html>

In A Nutshell: Civil Unions in Hawai'i

On February 23, 2011, Governor Abercrombie signed into law Act 001(11), recognizing civil unions in Hawai'i. The new law will go into effect on January 1, 2012.

Prior to the passing of the Civil Union Law, domestic partners in Hawai'i could only become Reciprocal Beneficiaries. The Reciprocal Beneficiary Law, extends a number of rights to domestic partners such as: rights to hospital visitation and medical decision-making, emergency medical leave to care for a partner, priority in legal guardianship issues, rights to hold property as tenants by the entirety, rights to shared auto insurance coverage, and some inheritance rights.

Under the new Civil Union Law, people who enter into civil unions will be entitled to all spousal rights and duties. Unlike Reciprocal Beneficiaries, these rights and duties include: access to step-parent and joint adoptions, right not to testify against a partner, liability for family debts and the duty of joint financial support, joint filing for state income taxes, dissolution of unions in Family Court with access to custody, visitation, and support and equitable division of assets and debts. However; due to the current Federal Defense of Marriage Act ("DOMA"), civil union partners will be precluded from any federal rights and responsibilities, including: federal veterans' spousal benefits, immigration rights, Social Security survivors' and spousal benefits, and federal inheritance tax benefits.

The Hawai'i State Department of Health is currently working to implement the new Civil Unions Law with a system that includes application, registration, and statistical monitoring. In addition, The Hawai'i Family Court is working on the mechanisms and forms necessary to process dissolutions of civil unions.

At this time, there are still many open issues and questions concerning how the new Civil Union Law can be implemented most efficiently. To address these remaining issues, the Hawai'i State Legislature established a task force to study the legal issues within the Law and to craft legislative "fixes" to effectuate in the upcoming 2012 legislative session, so stay tuned.