

COLORADO GETS CIVIL-IZED!

Colorado Civil Union Act Explained



PANELISTS

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With Thanks to Out Boulder!!

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COLORADO CIVIL UNION ACT

- Signed into law on March 21, 2013
- Most provisions effective May 1, 2013
 - including the issuance of licenses
- Insurance provisions effective January 1, 2014



An Act

SENATE BILL 13-011

BY SENATOR(S) Steadman and Guzman, Ulibarri, Aguilar, Carroll, Giron, Heath, Hodge, Hudak, Jahn, Johnston, Jones, Kefalas, Kerr, Morse, Newell, Nicholson, Schwartz, Tochtrop, Todd;
also REPRESENTATIVE(S) Ferrandino and Schafer, Ginal, Moreno, Rosenthal, Court, Buckner, Duran, Exum, Fields, Fischer, Foote, Garcia, Gerou, Hamner, Hullinghoest, Kagan, Kraft-Tharp, Labuda, Lebsock, Lee, Levy, May, McCann, McLachlan, Melton, Mitsch Bush, Pabon, Peniston, Pettersen, Primavera, Ryden, Salazar, Singer, Tyler, Vigil, Williams, Young.

CONCERNING AUTHORIZATION OF CIVIL UNIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 15 to title 14 as follows:

ARTICLE 15
Colorado Civil Union Act

14-15-101. Short title. THIS ARTICLE IS KNOWN AS THE "COLORADO CIVIL UNION ACT".

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

WHAT IS A CIVIL UNION

- State recognized relationship of two eligible people
- Entitles couple to state level rights, benefits, protections and responsibilities similar to marriage



Separate But Equal to no Heterosexual Citizens



FITZSIMMONS @ THE ARIZONA DAILY STAR 2009 CASE CARTOONS.COM

WHAT A CIVIL UNION IS NOT

- NOT marriage
- NOT recognized in all states
- NOT entitled to rights, benefits, protections or responsibilities provided to married couples under Federal law

WHO IS ELIGIBLE FOR A CIVIL UNION

- At least 18 years of age and not under Guardianship
- Neither party is a party to another civil union*
- Neither party is married to another person*
- Not closely related to each other
- Not required to be same-sex couple
- Not required to be Colorado residents

OBTAINING CIVIL UNION LICENSE IF ALREADY MARRIED OR CIVIL UNIONED IN ANOTHER STATE

- Problem: wide variety of license/certificates obtained in other states (marriage/civil union): unlike marriage, civil union is not familiar to the bankers/realtors/business owners/employers with whom partners will be dealing. Showing a California marriage certificate from between June and Nov. 2008 may not mean much to such persons.
- CDPHE can solve this through the license application form by clarifying that the exclusion for already married/civil union persons does not apply where that same couple is the one applying for a Colorado civil union.

OBTAINING A CIVIL UNION- APPLICATION

- Apply for a Civil Union license
 - Available May 1, 2013 at County Clerk's Office
 - Fee applies
 - Take identification with you
 - May want to take proof of dissolution of prior marriage or civil union

OBTAINING A CIVIL UNION- LICENSE

- Civil Union License
 - Must be certified within 35 days of the date of issuance
 - If not used it is void and must be returned
- Only valid in Colorado

OBTAINING A CIVIL UNION- CERTIFICATION

- Must be certified by any of the following:
 - Judge of a Court
 - Magistrate - District Court or County Court
 - Retired Judge of a Court
 - **Parties to the Civil Union can certify their own union without the need for an officiant**
 - By any religious denomination, Indian Nation or Tribe

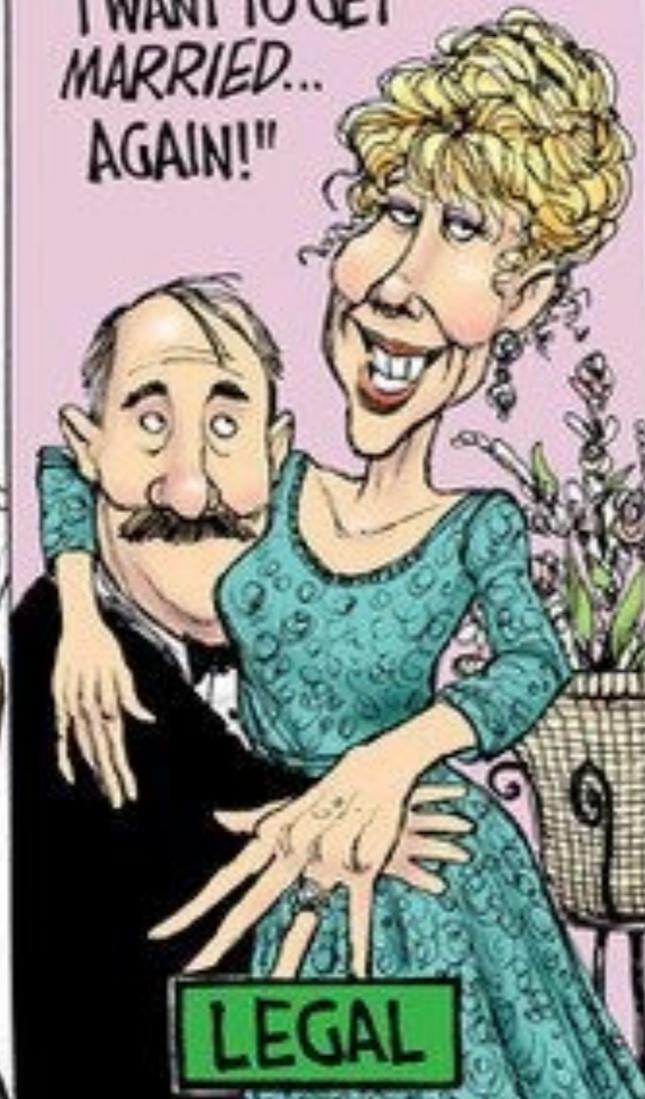
- A religious official, Indian Nation or Tribal official is not required to certify a Civil Union in violation of his or her right to the free exercise of religion
- Within 63 days of the date of certification, the person certifying the union must complete the certificate and return it to the County Clerk's office that issued the license
- Upon receipt of the certificate the County Clerk will register the Civil Union

DEFENDING THE SANCTITY OF MARRIAGE...

"WE MET AT THE CASINO BAR FOUR HOURS AGO AND WE (HIC) WANT TO GET MARRIED!"



"I'VE BEEN MARRIED AND DIVORCED SIX TIMES AND I WANT TO GET MARRIED... AGAIN!"



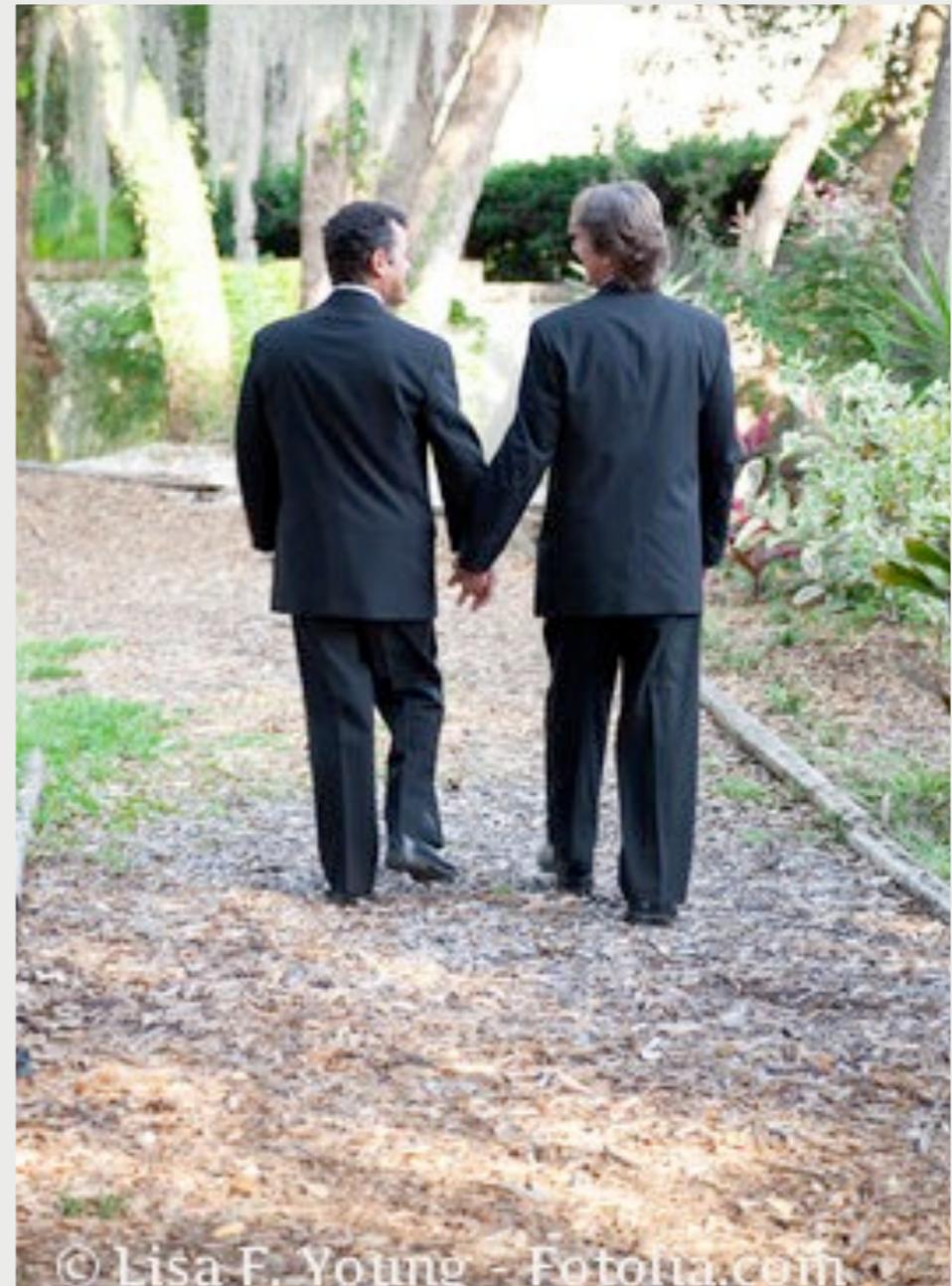
"WE'VE BEEN IN A COMMITTED RELATIONSHIP FOR 20 YEARS AND WE WANT TO GET MARRIED."



HORSEY

So I can't get married, but I can get a Civil Union. But, a Civil Union is not marriage...what is the point???

The Colorado Civil Union Act is intended to give parties the same rights, benefits, protections, duties, obligations, responsibilities, and other incidents under law as are granted to married couples.



- The general rule is that wherever the term spouse appears in Colorado law, the definition of spouse shall now include civil union partner.
- Exceptions will be discussed later in this presentation



FAMILY LAW RIGHTS AND RESPONSIBILITIES

- Joint financial support, and liability for family debts
- Children
 - Step-children (second-parent adoption)
 - Children born into the Civil Union
 - Adoption
- Coverage under various abuse and protection laws

- Eligibility for family leave
- Eligibility for public assistance benefits
- Right not to testify against partner
- Application of the law of domestic relations law (dissolution, child rights and obligations, property division, etc)

MEDICAL AND DEATH-RELATED RIGHTS

- Legal claims
- Application of Probate Laws, including:
 - those related to property, and
 - those related to guardianships and conservatorships
- Application of Workers' Compensation Laws
- Medical care, treatment and hospital visitation

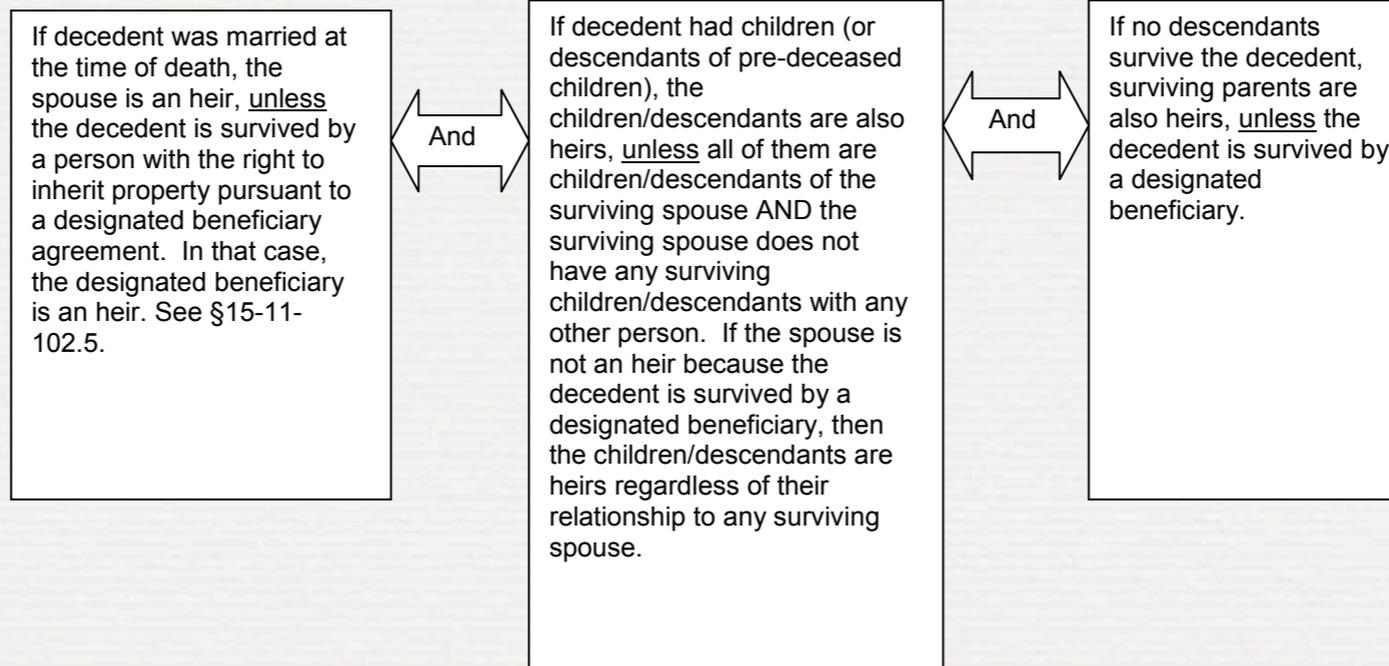
- Insurance coverage - medical, life and other plans -
BEWARE tax implications
 - state employee plans
 - private employer plans
- Complaints related to care/treatment in nursing home
- Decision-maker for medical treatment, disposition of last remains and anatomical gifts

OTHER RIGHTS AND RESPONSIBILITIES

- Transfer of real or personal property
- Prohibitions against discrimination based upon spousal status
- Unemployment benefits
- Survivor benefits - local government firefighter and police pensions
- Visitation in prisons, jails and mental health facilities

- Homestead exemption
- Ability to protect exempt property from attachment, execution, or garnishment

Heirs are those people who are entitled by statute to the decedent's property when there is no will (or when the will does not dispose of all assets).



If none of the above, then:



Decedent's brothers and sisters (and descendants of any pre-deceased brothers and sisters) are the heirs.

If none, then:



Decedent's grandparents, or if both grandparents on either side (maternal or paternal) are deceased, the descendants of the pre-deceased grandparents are also heirs.

IMPORTANT NOTE: If any person who would be an heir died before decedent, then their children substitute for them and become the decedent's heirs. Therefore, grandchildren, great-grandchildren, nieces, nephews, etc., must be considered when determining heirship. Heirs must survive the decedent by at least 120 hours.

ENDING A CIVIL UNION

- Must file a Petition for Dissolution - same procedure as married spouses use for divorce
- The Court will have authority to enter orders - maintenance and support, parental responsibilities, and property division



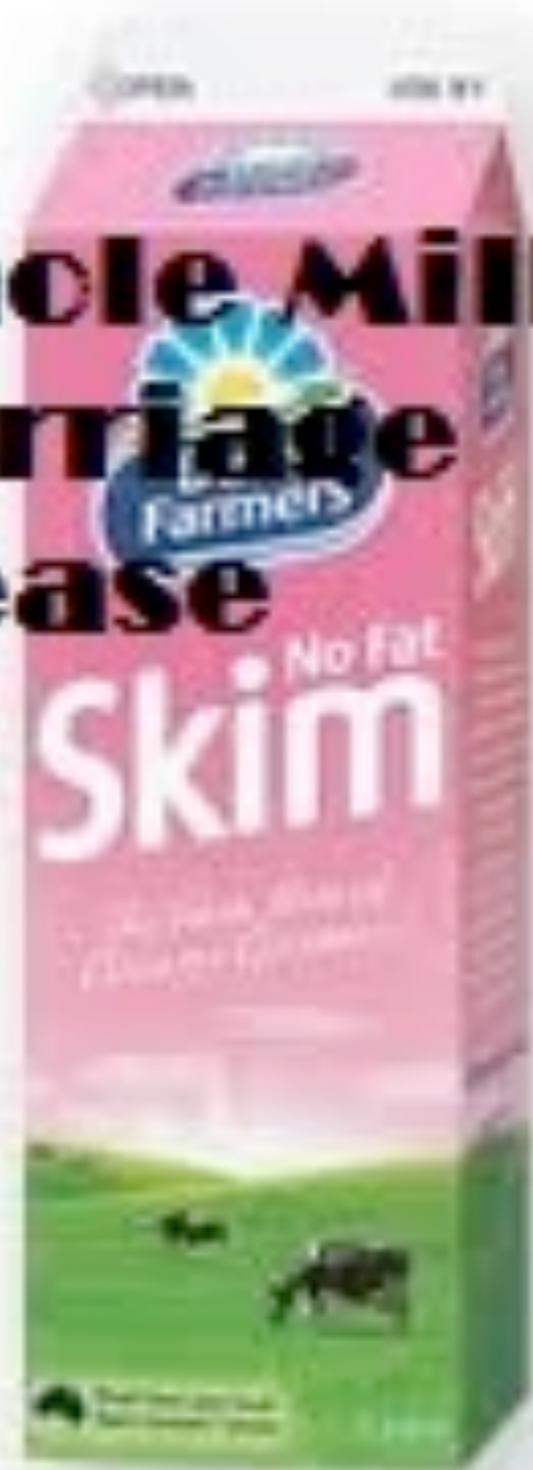
ENDING A CIVIL UNION - JURISDICTION ISSUES

- Jurisdiction, meaning where can you file for dissolution.
- If Civil Union license was obtained in Colorado, then you can file in Colorado even if one or both parties have left the state
- If Civil Union license was obtained in a different jurisdiction, then the dissolution can still be filed in Colorado if the parties meet residency requirements

DISSOLUTION PROBLEMS - CONT'D

- Same-sex couple married in another jurisdiction (i.e. Iowa) but lives in Colorado, can they obtain a divorce/dissolution in Colorado?
- Same-sex couple married or civil unioned in another jurisdiction, live in Colorado on May 1, 2013, but move to a “hostile” jurisdiction thereafter, can they obtain a divorce/dissolution in Colorado while residing in a “hostile” jurisdiction?

**Whole Milk
Marriage
Please**



CIVIL UNIONS - WHAT IS NOT CONFERRED

- Partners can NOT file joint taxes under state law
- Federal law still does NOT recognize the relationship status for purpose of federal spousal rights and protections
 - No social security survivors' or spousal benefits
 - No federal spousal employment benefits
 - Can not file joint federal income tax returns

- No federal estate tax exemption benefits
- No spousal protections in bankruptcy
- No authority to sponsor spouse in immigration
- No federal family and medical leave benefits
- A Colorado Civil Union is not automatically recognized in other states

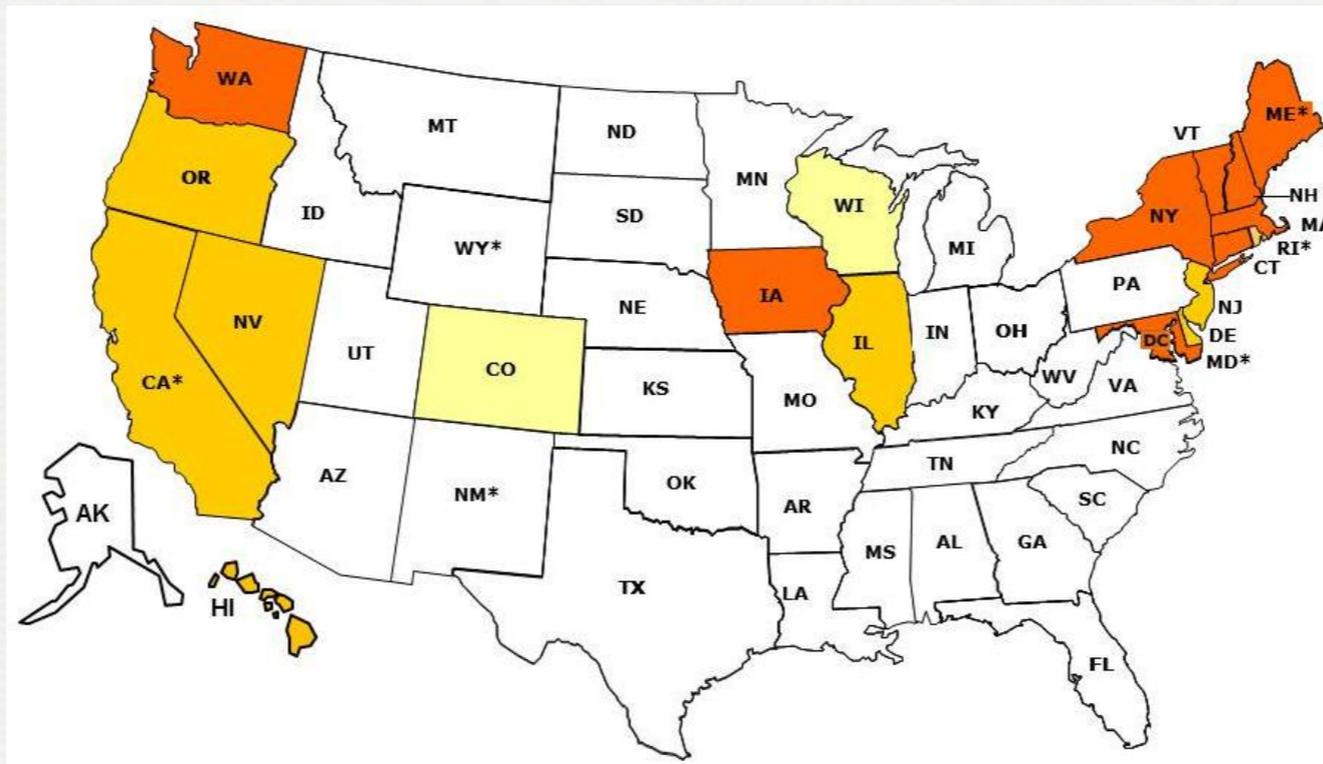
A CIVIL UNION, MAY NOT BE RIGHT FOR YOU

- Though it is not marriage, it is a legal relationship that brings with it numerous legal responsibilities
- Failure to legally dissolve a civil union that ends can result in a variety of legal problems
- Civil Union could interfere with adoptions from other jurisdictions
- Interference with public assistance
- Tax implications

- Implications if you relocate to a state that does not recognize Civil Unions

NON-PORTABILITY - OTHER STATES

- Example - New York
 - Permits same-sex marriage and recognizes marriages validly contracted elsewhere
 - Has various individual laws that give certain rights to “domestic partners” or similar relationship partners
 - Does NOT recognize civil unions as marriage and has no provisions for civil union dissolution, etc. (although courts have generally construed civil unions to be contractual and subject to “equity.”)



	State issues marriage licenses to same-sex couples (9 states and D.C.): <i>Connecticut (2008), District of Columbia (2010), Iowa (2009), Maine (December, 2012), Maryland, (January, 2013), Massachusetts (2004), New Hampshire (2010), New York (2011) Vermont (2009), Washington (2012).</i>
	State recognizes marriages by same-sex couples legally entered into in another jurisdiction (1 state): <i>Rhode Island (2012).</i>
	Statewide law providing the equivalent of state-level spousal rights to same-sex couples within the state (8 states and D.C.): <i>California* (domestic partnerships, 1999, expanded in 2005), Delaware (civil unions, 2012), Hawaii (civil unions, 2012) Illinois (civil unions, 2011), Nevada (domestic partnerships, 2009), New Jersey (civil unions, 2007), Oregon (domestic partnerships, 2008), and Rhode Island (civil unions, 2011).</i>
	Statewide law providing some statewide spousal rights to same-sex couples within the state (2 states): <i>Colorado (designated beneficiaries, 2009) and Wisconsin (domestic partnerships, 2009).</i>

* California: Same-sex marriages that took place between June 16, 2008 and Nov. 4, 2008 continue to be defined as marriages. On Oct. 12, 2009, Gov. Schwarzenegger signed into law a bill that recognizes out-of-jurisdiction same-sex marriages that occurred between the June to Nov.2008 time frame as marriages in California, and all other out-of-jurisdiction same-sex marriages as domestic partnerships.

* Maine: Marriage equality law goes into effect on December 29, 2012.

* Maryland: Marriage equality law goes into effect on January 1, 2013.

CIVIL UNIONS AND ESTATE PLANNING

- Since my partner and I have now been joined in a Civil Union, we don't need to do estate planning, correct?
 - WRONG ...

ADDITIONAL THOUGHTS

- What is the impact on my Colorado Domestic Partnership Agreement or Civil Contract?
- What if I have a Marriage, Civil Union or Registered Domestic Partnership from another jurisdiction?
- What is the impact on my Colorado Designated Beneficiary Agreement?

LGBT RIGHTS CALCULATOR

- CNN has created an LGBT rights calculator, where you can find out which states match your values when it comes to LGBT rights. You answer a group of questions and move a slider between “not important” and “very important” to indicate your positions on a variety of issues, then the states are ranked according to your point of view.
- Check it out at www.cnn.com/interactive/2013/03/opinion/lgbt-rights/



ONE STEP FORWARD,
TWO STEPS BACK. NOW THREE
FORWARD, ONE BACK...

GAY WEDDINGS
TAKE FOREVER...

MIKE LUCKOVICH
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