2007 -- H 5289

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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE PROCEDURE GENERALLY -- WITNESSES

Introduced By: Representatives Almeida, Slater, Ajello, and Handy

Date Introduced: February 01, 2007

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Section 9-17-13 of the General Laws in Chapter 9-17 entitled "Witnesses" is hereby amended to read as follows:

9-17-13. ~~Spouses of parties~~ Spouses and domestic partners of parties. – (a) In the trial of every civil cause, the husband, ~~or~~ wife or domestic partner of either party shall be deemed a competent witness; provided, that neither shall be permitted to give any testimony tending to criminate the other or to disclose any communication made to him or her, by the other, during their marriage or domestic partnership, except on trials of petitions for divorce between them, trials between them involving their respective property rights, or trials between them involving their respective rights regarding the children of either or both domestic partners and under the provisions of section 11-34-3.

(b) For purposes of this section, "domestic partner" shall mean a person who shares an exclusive, intimate and committed relationship of mutual caring with the party and can demonstrate that the party and domestic partner:

(1) are at least eighteen (18) years of age and mentally competent to contract;

(2) are not married to anyone else;

(3) are not related by blood to a degree that would prohibit marriage in the state of Rhode Island;

(4) reside together and have resided together for at least one year, and

(3) are financially interdependent as evidenced by at least two (2) of the following:

(i) domestic partnership agreement or relationship contract;

(ii) joint mortgage or joint ownership of primary residence;

(iii) two (2) of:

1. joint ownership of motor vehicle;

2. joint checking account;

3. joint credit account;

4. joint lease; and/or

(iv) the domestic partner has been designated as a beneficiary for the party's will, retirement contract or life insurance.

SECTION 2. Section 12-17-10 of the General Laws in Chapter 12-17 entitled "Trial" is hereby amended to read as follows:

12-17-10. ~~Defendant's spouse as witness~~ Defendant's spouse or domestic partner as witness. – (a) The husband or wife or domestic partner of any respondent in a criminal prosecution shall not be compelled to testify as a witness against his or her spouse or domestic partner.

(b) The husband or wife or domestic partner of any respondent in a criminal prosecution, offering himself or herself as a witness, shall not be excluded from testifying because he or she is the husband ~~or~~ wife or domestic partner of the respondent.

(c) For purposes of this section, "domestic partner" shall mean a person who shares an exclusive, intimate and committed relationship of mutual caring with the respondent and can demonstrate that the respondent and domestic partner:

(1) are at least eighteen (18) years of age and mentally competent to contract;

(2) are not married to anyone else;

(3) are not related by blood to a degree that would prohibit marriage in the state of Rhode Island;

(4) reside together and have resided together for at least one year, and

(3) are financially interdependent as evidenced by at least two (2) of the following:

(i) domestic partnership agreement or relationship contract;

(ii) joint mortgage or joint ownership of primary residence;

(iii) two (2) of:

1. joint ownership of motor vehicle;

2. joint checking account;

3. joint credit account;

4. joint lease; and/or

(iv) the domestic partner has been designated as a beneficiary for the party's will, retirement contract or life insurance.

SECTION 3. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

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This act would add domestic partners to the protections offered to spouse's who are witnesses in civil trials.

This act would take effect upon passage.

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