SPONSOR: Rep. Wilson-Anton & Sen. Sturgeon
Rep. Chukwuocha

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 8

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO MARRIAGES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 101, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 101. Void and voidable marriages.

~~(a) A~~ (a)(1) Except as set forth under paragraph (a)(2) of this section, a marriage is prohibited and void between a person and such person's ancestor, descendant, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew or first cousin.

(2) A marriage obtained or recognized outside this State between first cousins, that is valid under the laws of the jurisdiction in which the marriage was obtained or recognized, is a legal and valid marriage in this State.

(d) A marriage obtained or recognized outside the State between persons prohibited by subsection (a) of this section shall not constitute a legal or valid marriage within the ~~State.~~ State except as provided under paragraph (a)(2) of this section.

(e) For all purposes of the laws of this State, 2 persons of the same gender who are parties to a legal union other than a marriage (whether designated as a civil union, a domestic partnership or another relationship) established in another jurisdiction shall be afforded and shall be subject to the same rights, benefits, protections, responsibilities, obligations and duties as are afforded and imposed upon married spouses (whether derived from statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity) if:

(1) Such legal union was validly entered into in such other jurisdiction;

(2) Such legal union would not be prohibited as a marriage by reason of subsection (a) of this section; and

(3) Such legal union affords and imposes on such individuals under the laws of the jurisdiction establishing such union substantially the same rights, benefits, protections, responsibilities, obligations and duties as a marriage.

SYNOPSIS

This Act amends Delaware's marriage laws to recognize a valid marriage between first cousins obtained or recognized outside of Delaware (either in another state or territory of the United States or foreign country) as a valid and legal marriage in Delaware. This Act does not legalize the performance of marriages between first cousins within the State of Delaware.

U.S. Immigration Services only recognizes marriages for immigrating couples as "valid" if the marriage is valid both where the marriage was performed and in the state where the couple is currently living or planning to live. Couples planning to settle in Delaware have been advised by federal officials to move to neighboring states that recognize marriages between first cousins as legal, leading to loss of economic activity to the state and unnecessary financial hardships for families seeking legal reunification.

This substitute bill makes a technical correction and removes subsections of the Code that are unchanged.