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We are writing to make you aware of recent Illinois legislation that will have an impact on Illinois employers. In late 2010, the Illinois House and Senate passed the Illinois Religious Freedom Protection and Civil Union Act (“the Act”). The Act is intended to 1) provide adequate procedures for the certification and registration of a civil union and 2) to provide persons entering into a civil union with the obligations, responsibilities, protections, and benefits afforded or recognized by the law of Illinois to Illinois spouses. The Act also protects the rights of religious institutions, Indian Nations or Tribes or Native Groups to choose whether or not to solemnize or officiate a civil union. Governor Quinn signed the Bill into law on January 31, 2011. The Act will take effect in June, 2011.

With regard to the first purpose, the Act defines a civil union as a legal relationship between two persons, of either the same or the opposite sex, established in accordance with the Act. A civil union is available to any couple, same sex or opposite sex, 18 years or older, in a committed relationship, and not in an existing marriage or civil union. A couple wishing to enter into a civil union will have to obtain a license, exchange vows before a secular or willing religious official and register the union with the county clerk. The provisions of the Illinois Marriage and Dissolution of Marriage Act will apply to the dissolution or declaration of invalidity of a civil union. Accordingly, all current procedures and rules applicable to annulment, divorce and property division will apply to partners in a civil union. The Act further provides that a marriage between persons of the same sex, a civil union, or a substantially similar legal relationship other than a common law marriage, legally entered into in another jurisdiction, shall be recognized in Illinois as a civil union.

With regard to the second purpose, the Act intends that partners in a civil union are treated like spouses. The Act ensures that all couples – same sex and opposite sex – who have entered into a civil union will have the protections and benefits afforded or recognized by the law of Illinois to Illinois spouses. Among the protections and benefits to be enjoyed by partners in a civil union are the following:

- Emergency medical decision making power
- Access to state spousal benefits, namely:
  - Workers’ compensation
  - Spousal pension coverage
  - Privilege of sharing a nursing home room
- Access to domestic relations laws and procedures, including:
  - Annulment/invalidity

- Separation
- Divorce and dissolution
- Disposition of property
- Access to civil actions dependent on spousal status, including wrongful death actions and tort actions for emotional distress
- Wills, trusts and estates
- Tax relief at the state and municipal level, but not at the federal level
- Domestic violence protection
- Spousal testimonial privilege
- Right to control disposition of remains

As such, the Act will have an impact on Illinois employers. Basically, a party to a civil union must receive the same treatment as a spouse would under Illinois law. The term spouse in any Illinois state law will be extended to include a partner in a civil union. If an employer provides spousal benefits, for example, they must be offered to parties in a civil union. A party to a civil union will have an interest in his partner's pension. If a party to a civil union is injured in a work related accident, his partner may be able to file suit for loss of consortium or emotional distress.

The Act only applies to benefits conferred by Illinois law. Because the Federal Defense of Marriage Act prohibits civil union partners from receiving any of the federal benefits of marriage, partners in a civil union will not, for example, have immigration rights or be able to claim federal tax exemptions or collect federal benefits like social security.

We will keep you updated on the status of the Act and its impact on employers. In the meantime, we recommend that employers review employee benefit plans and health benefit plans to ensure compliance with the Act. If you have any questions or need any further information, please contact one of our attorneys.

**More information may be found on our website at [www.mkm-law.com](http://www.mkm-law.com). If you have any questions or need any further information, please contact us.**

Very truly,

**MATUSZEWICH, KELLY & MCKEEVER, LLP**

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