

**GROUP 3** The Legislative Branch

**DOCUMENT 2** *An act relative to civil marriage and civil unions*

## New Hampshire HB 436

### CHAPTER 59

### HB 436-FN-LOCAL — FINAL VERSION

### 2009 SESSION

AN ACT relative to civil marriage and civil unions.

#### ANALYSIS

This bill eliminates the exclusion of same gender couples from marriage, affirms religious freedom protections of clergy with regard to the solemnization of marriage, and provides a mechanism by which same gender couples who have entered into a civil union prior to the enactment of this bill may obtain the legal status of marriage.

---

### STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nine*

AN ACT relative to civil marriage and civil unions.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

**59:1** Marriage; Marriages Prohibited; Recognition of Out-of-State Marriages. RSA 457:1 — RSA 457:3 are repealed and reenacted to read as follows:

**457:1** Purpose and Intent. The purpose of this chapter is to affirm the right of 2 individuals desiring to marry and who otherwise meet the eligibility requirements of this chapter to have their marriage solemnized in a religious or civil ceremony in accordance with the provisions of this chapter.

**457:1-a** Equal Access to Marriage. Marriage is the legally recognized union of 2 people. Any person who otherwise meets the eligibility requirements of this chapter may marry any other eligible person regardless of gender. Each party to a marriage shall be designated “bride,” “groom,” or “spouse.”

**457:2** Marriages Prohibited. No person shall marry his or her father, mother, father’s brother, father’s sister, mother’s brother, mother’s sister, son, daughter, brother, sister, son’s son, son’s daughter, daughter’s son, daughter’s daughter, brother’s son, brother’s daughter, sister’s son, sister’s daughter, father’s brother’s son, father’s brother’s daughter, mother’s brother’s son, mother’s brother’s daughter, father’s sister’s son, father’s sister’s daughter, mother’s sister’s son, or mother’s sister’s daughter. No person shall be allowed to be married to more than one person at any given time....

**457:31** Solemnization of Marriage. A marriage may be solemnized in the following manner:

- I. In a civil ceremony... or
- II. In a religious ceremony ...

**59:4** Affirmation of Freedom of Religion in Marriage. RSA 457:37 is repealed and reenacted to read as follows:

**457:37** Affirmation of Freedom of Religion in Marriage. Members of the clergy as described in RSA 457:31 or other persons otherwise authorized under law to solemnize a marriage shall not be obligated or otherwise required by law to officiate at any particular civil marriage or religious rite of marriage in violation of their right to free exercise of religion protected by the First Amendment to the United States Constitution or by part I, article 5 of the New Hampshire constitution.

**59:5** New Subdivision; Civil Unions; Other Jurisdictions; Obtaining Legal Status of Marriage. Amend RSA 457 by inserting after section 44 the following new subdivision:

**CIVIL UNION RECOGNITION; OBTAINING LEGAL STATUS OF MARRIAGE**

**457:45** Civil Union Recognition. A civil union legally contracted outside of New Hampshire shall be recognized as a marriage in this state, provided that the relationship does not violate the prohibitions of this chapter.

**457:46** Obtaining Legal Status of Marriage.

I. Two consenting persons who are parties to a valid civil union entered into prior to January 1, 2010 pursuant to this chapter may apply and receive a marriage license and have such marriage solemnized pursuant to RSA 457, provided that the parties are otherwise eligible to marry under RSA 457 and the parties to the marriage are the same as the parties to the civil union. ...

II. Two persons who are parties to a civil union established pursuant to RSA 457-A that has not been dissolved or annulled by the parties or merged into a marriage in accordance with paragraph I by January 1, 2011 shall be deemed to be married under this chapter on January 1, 2011 and such civil union shall be merged into such marriage by operation of law on January 1, 2011.

**59:6** Documents. Town clerks shall make any changes necessary to marriage registration forms and licenses, and the secretary of state shall make any changes necessary to documents issued by their respective offices in order to effectuate the purposes of this act....

Approved: June 3, 2009

Effective Date: January 1, 2010

*Original document is available at [www.gencourt.state.nh.us/legislation/2009/HB0436.html](http://www.gencourt.state.nh.us/legislation/2009/HB0436.html)*

## Questions to guide understanding of HB 436

1. What law does HB 436 institute?

---

---

---

2. What does the law say about the actions of members of the clergy?

---

---

---

---

3. How is New Hampshire HB 436 similar to the Civil Rights Act of 1964? How is it different?

---

---

---

---

---