

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0516.01 Michele Hanigsberg

SENATE BILL 06-166

SENATE SPONSORSHIP

Mitchell,

HOUSE SPONSORSHIP

(None),

Senate Committees
Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING RECIPROCAL BENEFICIARY AGREEMENTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Authorizes the establishment of reciprocal beneficiary agreements for the purpose of permitting any 2 unmarried persons who are excluded from entering into a valid marriage under the marriage laws of this state, or who are or were related by blood, adoption, or marriage, and who meet specified requirements, to establish a reciprocal beneficiary agreement that extends specific rights and related responsibilities to each reciprocal beneficiary. Specifies the rights and related responsibilities that would extend to reciprocal beneficiaries, including but not limited to health care insurance benefits.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Specifies who qualifies to enter into a reciprocal beneficiary agreement ("agreement") and how the agreement is formed and terminated. Describes the applicability of domestic partnerships formed pursuant to another state's law in relation to the agreements created in this act.

Specifies that a reciprocal beneficiary may be considered a dependent for health insurance coverage purposes if an employer elects to cover a reciprocal beneficiary as a dependent.

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

2 **SECTION 1.** Title 14, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 15**

5 **Reciprocal Beneficiary Agreements**

6 **14-15-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "RECIPROCAL BENEFICIARY" MEANS A PERSON WHO HAS
9 ENTERED INTO A VALID RECIPROCAL BENEFICIARY AGREEMENT PURSUANT
10 TO THE PROVISIONS OF THIS ARTICLE.

11 (2) "RECIPROCAL BENEFICIARY AGREEMENT" MEANS AN
12 AGREEMENT THAT IS ENTERED INTO BY TWO PERSONS WHO QUALIFY AS
13 RECIPROCAL BENEFICIARIES AND THAT IS EVIDENCED BY A FORM PROVIDED
14 BY THE SECRETARY OF STATE THAT, WHEN EXECUTED, GRANTS THE RIGHTS
15 AND RELATED RESPONSIBILITIES SET FORTH IN THIS ARTICLE TO THE
16 SIGNATORIES.

17 **14-15-102. Purpose of article - rights and related**
18 **responsibilities.** (1) THE PURPOSE OF THIS ARTICLE IS TO PERMIT ANY
19 TWO UNMARRIED PERSONS WHO ARE EXCLUDED FROM ENTERING INTO A
20 VALID MARRIAGE UNDER THE MARRIAGE LAWS OF THIS STATE, AS
21 SPECIFIED IN THE "UNIFORM MARRIAGE ACT", PART 1 OF ARTICLE 2 OF

1 THIS TITLE, OR WHO ARE OR WERE RELATED BY BLOOD, ADOPTION, OR
2 MARRIAGE, TO ESTABLISH A RECIPROCAL BENEFICIARY AGREEMENT TO
3 EXTEND THE RIGHTS AND RELATED RESPONSIBILITIES ENUMERATED IN THIS
4 ARTICLE TO EACH RECIPROCAL BENEFICIARY. THESE RIGHTS AND RELATED
5 RESPONSIBILITIES ARE:

6 (a) EMERGENCY AND NONEMERGENCY MEDICAL CARE AND
7 TREATMENT AND HOSPITAL VISITATION AND RELATED NOTIFICATION;

8 (b) THE RIGHT TO AUTHORIZE THE CARE AND TREATMENT OF A
9 RECIPROCAL BENEFICIARY THROUGH TERMINAL CARE DOCUMENTS AND
10 MEDICAL TREATMENT DOCUMENTS AND THE RIGHT TO MAKE MEDICAL
11 DECISIONS ON BEHALF OF A RECIPROCAL BENEFICIARY PURSUANT TO THE
12 "COLORADO MEDICAL TREATMENT DECISION ACT", ARTICLE 18 OF TITLE
13 15, C.R.S., OR PURSUANT TO ARTICLE 18.5 OF TITLE 15, C.R.S.;

14 (c) THE RIGHT TO PARTICIPATE IN DECISION MAKING RELATING TO
15 ANATOMICAL GIFTS OF A RECIPROCAL BENEFICIARY;

16 (d) THE RIGHT TO PARTICIPATE IN DECISION MAKING RELATING TO
17 THE DISPOSITION OF REMAINS OF A RECIPROCAL BENEFICIARY;

18 (e) NOTWITHSTANDING THE INTIMATE RELATIONSHIP
19 REQUIREMENT, THE RIGHT TO RECEIVE THE PROTECTIONS AND PROGRAMS
20 SPECIFIED IN PART 8 OF ARTICLE 6 OF TITLE 18, C.R.S.;

21 (f) THE RIGHTS INURING FROM THE LAWS RELATING TO INTESTATE
22 SUCCESSION IN THE SAME POSITION AS A SPOUSE PURSUANT TO TITLE 15,
23 C.R.S.; AND

24 (g) THE RIGHTS ASSOCIATED WITH THE ACQUISITION, OWNERSHIP,
25 OR TRANSFER, INTER VIVOS OR AT DEATH, OF REAL PROPERTY, INCLUDING
26 ELIGIBILITY TO HOLD REAL AND PERSONAL PROPERTY AS JOINT TENANTS
27 WITH RIGHT OF SURVIVORSHIP OR AS TENANTS IN COMMON.

1 (2) THIS ARTICLE SHALL NOT BE CONSTRUED TO CREATE ANY
2 RIGHTS OR RESPONSIBILITIES FOR RECIPROCAL BENEFICIARIES THAT ARE
3 NOT SPECIFICALLY ENUMERATED.

4 **14-15-103. Formation.** (1) TWO PERSONS SHALL BE RECIPROCAL
5 BENEFICIARIES IF THEY:

6 (a) ARE AT LEAST EIGHTEEN YEARS OF AGE;

7 (b) ARE NOT A PARTY TO A MARRIAGE OR ANOTHER RECIPROCAL
8 BENEFICIARY AGREEMENT;

9 (c) ARE EXCLUDED FROM MARRYING EACH OTHER UNDER THE
10 MARRIAGE LAWS OF THIS STATE, AS SPECIFIED IN THE "UNIFORM
11 MARRIAGE ACT", PART 1 OF ARTICLE 2 OF THIS TITLE;

12 (d) ENTER INTO THE RECIPROCAL BENEFICIARY AGREEMENT
13 WITHOUT FORCE, FRAUD, OR DURESS; AND

14 (e) EXECUTE A RECIPROCAL BENEFICIARY AGREEMENT FORM
15 PROVIDED BY THE SECRETARY OF STATE IN THE PRESENCE OF A NOTARY
16 PUBLIC AND FILE THE AGREEMENT WITH THE COUNTY CLERK AND
17 RECORDER OF THE COUNTY IN WHICH AT LEAST ONE OF THE RECIPROCAL
18 BENEFICIARIES RESIDES.

19 (2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (c) OF
20 SUBSECTION (1) OF THIS SECTION, TWO PERSONS SHALL BE RECIPROCAL
21 BENEFICIARIES IF THEY ARE OR WERE RELATED BY BLOOD, ADOPTION, OR
22 MARRIAGE, IF THEY OTHERWISE MEET ALL OF THE REQUIREMENTS SET
23 FORTH IN SUBSECTION (1) OF THIS SECTION.

24 **14-15-104. Termination - property division.** (1) A RECIPROCAL
25 BENEFICIARY AGREEMENT SHALL BE TERMINATED AS FOLLOWS:

26 (a) WHEN EITHER PARTY ENTERS INTO A VALID MARRIAGE
27 RECOGNIZED UNDER THE MARRIAGE LAWS OF THIS STATE, AS SPECIFIED IN

1 THE "UNIFORM MARRIAGE ACT", PART 1 OF ARTICLE 2 OF THIS TITLE; OR

2 (b) WHEN EITHER PARTY TERMINATES THE AGREEMENT UNDER THE
3 PROCEDURES NECESSARY FOR INVALIDATING A LAST WILL AND TESTAMENT
4 AND FILES NOTICE OF TERMINATION WITH THE COUNTY CLERK AND
5 RECORDER OF THE COUNTY IN WHICH THE RECIPROCAL BENEFICIARIES
6 FILED THEIR RECIPROCAL BENEFICIARY AGREEMENT.

7 (2) THE DIVISION OF ASSETS AFTER TERMINATION OF A RECIPROCAL
8 BENEFICIARY AGREEMENT SHALL BE DONE IN ACCORDANCE WITH SECTION
9 7-64-807, C.R.S., AS APPLICABLE.

10 **14-15-105. Applicability - domestic partnerships.**

11 (1) DOMESTIC PARTNERS REGISTERED PURSUANT TO ANOTHER STATE'S
12 LAW SHALL BE DEEMED TO HAVE EXECUTED A RECIPROCAL BENEFICIARY
13 AGREEMENT IF THE PARTIES OTHERWISE QUALIFY AS RECIPROCAL
14 BENEFICIARIES PURSUANT TO SECTION 14-15-103. DOMESTIC PARTNERS
15 WHO DO NOT QUALIFY TO BECOME RECIPROCAL BENEFICIARIES SHALL NOT
16 BE DEEMED TO HAVE A VALID LEGAL STATUS WITHIN THE STATE OF
17 COLORADO AS DOMESTIC PARTNERS.

18 (2) LEGAL CONTRACTS, OTHER THAN DOMESTIC PARTNERSHIPS,
19 PURSUANT TO ANOTHER STATE'S LAW, OTHER THAN A MARRIAGE BETWEEN
20 A MAN AND A WOMAN, SHALL BE TREATED AS RECIPROCAL BENEFICIARY
21 AGREEMENTS IF:

22 (a) THE PARTIES QUALIFY TO ENTER INTO A RECIPROCAL
23 BENEFICIARY AGREEMENT PURSUANT TO SECTION 14-15-103; AND

24 (b) BOTH PARTIES ARE PRESENT OR RESIDE IN THIS STATE.

25 **SECTION 2.** 10-16-102 (14) and (26) (d), Colorado Revised
26 Statutes, are amended to read:

27 **10-16-102. Definitions.** As used in this article, unless the context

1 otherwise requires:

2 (14) "Dependent" means a spouse, an unmarried child under
3 nineteen years of age, an unmarried child who is a full-time student under
4 twenty-four years of age and who is financially dependent upon the
5 parent, and an unmarried child of any age who is medically certified as
6 disabled and dependent upon the parent. "DEPENDENT" SHALL INCLUDE
7 A RECIPROCAL BENEFICIARY, AS DEFINED IN SECTION 14-15-101 (1),
8 C.R.S., IF AN EMPLOYER ELECTS TO COVER A RECIPROCAL BENEFICIARY AS
9 A DEPENDENT.

10 (26) "Late enrollee" means an eligible employee or dependent
11 who requests enrollment in a group health benefit plan following the
12 initial enrollment period for which such individual is entitled to enroll
13 under the terms of the health benefit plan, if such initial enrollment period
14 is a period of at least thirty days. An eligible employee or dependent shall
15 not be considered a late enrollee if:

16 (d) (I) A person becomes a dependent of a covered person through
17 marriage, birth, adoption, or placement for adoption and requests
18 enrollment no later than thirty days after becoming such a dependent. In
19 such case, coverage shall commence on the date the person becomes a
20 dependent if a request for enrollment is received in a timely fashion
21 before such date.

22 (II) A PERSON BECOMES A DEPENDENT OF A COVERED PERSON
23 THROUGH A RECIPROCAL BENEFICIARY AGREEMENT PURSUANT TO ARTICLE
24 15 OF TITLE 14, C.R.S., AND REQUESTS ENROLLMENT NO LATER THAN
25 THIRTY DAYS AFTER BECOMING SUCH A DEPENDENT, AND THE EMPLOYER
26 OF THE COVERED PERSON ELECTS TO COVER RECIPROCAL BENEFICIARIES
27 AS DEPENDENTS. IN SUCH CASE, COVERAGE SHALL COMMENCE ON THE

1 DATE THE PERSON BECOMES A DEPENDENT IF A REQUEST FOR ENROLLMENT
2 IS RECEIVED IN A TIMELY FASHION BEFORE THE DATE.

3 **SECTION 3.** Part 1 of article 16 of title 10, Colorado Revised
4 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
5 read:

6 **10-16-103.7. Coverage for reciprocal beneficiaries.**
7 NOTWITHSTANDING ANY LAW TO THE CONTRARY, CARRIERS SHALL
8 PROVIDE DEPENDENT COVERAGE TO RECIPROCAL BENEFICIARIES, AS
9 DEFINED IN SECTION 14-15-101 (1), C.R.S., THAT IS EQUIVALENT TO THAT
10 PROVIDED TO DEPENDENTS IF AN EMPLOYER ELECTS TO COVER
11 RECIPROCAL BENEFICIARIES AS DEPENDENTS. AN INDIVIDUAL OR GROUP
12 INSURANCE POLICY THAT PROVIDES COVERAGE FOR A FAMILY MEMBER OF
13 THE INSURED SHALL ALSO PROVIDE THE EQUIVALENT COVERAGE FOR A
14 RECIPROCAL BENEFICIARY.

15 **SECTION 4. Effective date.** This act shall take effect at 12:01
16 a.m. on the day following the expiration of the ninety-day period after
17 final adjournment of the general assembly that is allowed for submitting
18 a referendum petition pursuant to article V, section 1 (3) of the state
19 constitution (August 9, 2006, if adjournment sine die is on May 10,
20 2006); except that, if a referendum petition is filed against this act or an
21 item, section, or part of this act within such period, then the act, item,
22 section, or part, if approved by the people, shall take effect on the date of
23 the official declaration of the vote thereon by proclamation of the
24 governor.