

2 **ESHB 1130** - S AMD - 595
3 By Senator Swecker

4 ADOPTED 2/6/98

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** (1) In P.L. 104-199; 110 Stat. 219, the
8 Defense of Marriage Act, Congress granted authority to the individual
9 states to either grant or deny recognition of same-sex marriages
10 recognized as valid in another state. The Defense of Marriage Act
11 defines marriage for purposes of federal law as a legal union between
12 one man and one woman as husband and wife and provides that a state
13 shall not be required to give effect to any public act or judicial
14 proceeding of any other state respecting marriage between persons of
15 the same sex if the state has determined that it will not recognize
16 same-sex marriages.

17 (2) The legislature and the people of the state of Washington find
18 that matters pertaining to marriage are matters reserved to the
19 sovereign states and, therefore, such matters should be determined by
20 the people within each individual state and not by the people or courts
21 of a different state.

22 NEW SECTION. **Sec. 2.** (1) It is a compelling interest of the state
23 of Washington to reaffirm its historical commitment to the institution
24 of marriage as a union between a man and a woman as husband and wife
25 and to protect that institution.

26 (2) The court in *Singer v. Hara*, 11 Wn. App. 247 (1974) held that
27 the Washington state marriage statute does not allow marriage between
28 persons of the same sex. It is the intent of the legislature by this
29 act to codify the *Singer* opinion and to fully exercise the authority
30 granted the individual states by Congress in P.L. 104-199; 110 Stat.
31 219, the Defense of Marriage Act, to establish public policy against
32 same-sex marriage in statutory law that clearly and definitively
33 declares same-sex marriages will not be recognized in Washington, even
34 if they are made legal in other states.

1 **Sec. 3.** RCW 26.04.010 and 1973 1st ex.s. c 154 s 26 are each
2 amended to read as follows:

3 (1) Marriage is a civil contract (~~((which may be entered into by~~
4 ~~persons of))~~) between a male and a female who have each attained the age
5 of eighteen years, and who are otherwise capable(~~(: PROVIDED, That))~~).

6 (2) Every marriage entered into in which either (~~(party shall not~~
7 ~~have))~~) the husband or the wife has not attained the age of seventeen
8 years (~~(shall be))~~) is void except where this section has been waived by
9 a superior court judge of the county in which one of the parties
10 resides on a showing of necessity.

11 **Sec. 4.** RCW 26.04.020 and 1927 c 189 s 1 are each amended to read
12 as follows:

13 (1) Marriages in the following cases are prohibited:

14 (~~(1))~~) (a) When either party thereto has a wife or husband living
15 at the time of such marriage(~~(-))~~);

16 (~~(2))~~) (b) When the (~~(parties thereto))~~) husband and wife are
17 nearer of kin to each other than second cousins, whether of the whole
18 or half blood computing by the rules of the civil law; or

19 (c) When the parties are persons other than a male and a female.

20 (~~(3))~~) (2) It (~~(shall be))~~) is unlawful for any man to marry his
21 father's sister, mother's sister, daughter, sister, son's daughter,
22 daughter's daughter, brother's daughter or sister's daughter; it
23 (~~(shall be))~~) is unlawful for any woman to marry her father's brother,
24 mother's brother, son, brother, son's son, daughter's son, brother's
25 son or sister's son.

26 (3) A marriage between two persons that is recognized as valid in
27 another jurisdiction is valid in this state only if the marriage is not
28 prohibited or made unlawful under subsection (1)(a), (1)(c), or (2) of
29 this section."

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4 On page 1, line 2 of the title, after "marriage;" strike the
5 remainder of the title and insert "amending RCW 26.04.010 and
6 26.04.020; and creating new sections."

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