

FINAL BILL REPORT

SSB 5336

C 156 L 07

Synopsis as Enacted

Brief Description: Protecting individuals in domestic partnerships by granting certain rights and benefits.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Murray, Kohl-Welles, Fairley, Prentice, Regala, Oemig, Tom, Kline, Hobbs, Pridemore, Keiser, Berkey, Franklin, Brown, Weinstein, Rockefeller, Poulsen, Fraser, Jacobsen, Spanel and McAuliffe).

Senate Committee on Government Operations & Elections **House Committee on Judiciary**

Background: A number of state laws provide automatic rights and powers to spouses. In the health care context, health care providers can secure informed consent for a patient who is not competent from the patient's spouse, and disclose information about a patient without the patient's authorization to immediate family members of the patient and other individuals with whom the patient is known to have a close personal relationship.

Upon dissolution or invalidation of a marriage, the designation of a spouse as the beneficiary for various nonprobate assets is automatically revoked. Similarly, when a person has granted his or her spouse power of attorney, that power is revoked upon dissolution, legal separation, or invalidation of the marriage.

Spouses have the authority to consent to autopsies and make anatomical gifts. Spouses enjoy protections regarding the title to cemetery plots and rights of interment. If an individual dies intestate, or without a will, his or her spouse has certain inheritance rights and rights to administer the decedent's estate.

Same-sex domestic partners of public employees are eligible to participate in Public Employees Benefits Board (PEBB) insurance coverage. In order to qualify, same-sex domestic partners must meet PEBB eligibility rules and submit a declaration of same-sex domestic partnership.

Summary: The state domestic partnership registry is created in the Office of the Secretary of State (OSOS). The OSOS is directed to prepare separate forms for the declaration and the termination of a state registered domestic partnership. The forms must contain statements that registration and termination may affect property and inheritance rights and that rights conferred by registration may be superseded by a will, deed, or other instrument.

Individuals seeking to enter into a state registered domestic partnership must:

- share a common residence;
- be at least 18 years of age;

- not be married to, nor be in a state registered domestic partnership with, someone other than the person with whom they are entering into a domestic partnership;
- be capable of consenting to the partnership;
- not be nearer of kin than second cousins nor be a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other person; and
- be members of the same sex, or one of the persons must be at least 62 years of age.

Domestic partnerships created by subdivisions of the state are not state registered domestic partnerships.

Registration: Declarations of state registered domestic partnerships are filed with the OSOS along with a filing fee as set by the OSOS to cover costs, provided the fee does not exceed fifty dollars. The declarations must be notarized and signed by both parties. The OSOS must provide a certificate of state registered domestic partnership to each party on the declaration, maintain a permanent record of each declaration, and submit a record of the declaration and certificate to the state registrar of vital statistics.

The OSOS is required to maintain a list of jurisdictions that have notified the OSOS that the jurisdiction is using the definition of domestic partnership created in the bill in order to provide benefits to its employees. The OSOS is required to post this list on the web page and send a copy of the list to partners along with the certificate of domestic partnership.

Termination: State registered domestic partnerships can be terminated by either party filing a notice of termination with the OSOS and paying the accompanying filing fee. The termination notice must be notarized and signed by at least one party. If the notice is not signed by both parties, the party seeking termination must file an affidavit stating that the other party has been served notice of the termination, or that the other party could not be located after a reasonable effort including publication of the termination notice in a newspaper of general circulation in the county where the residence most recently shared by the partners is located. The effective date of the termination is 90 days after the date the notice was filed.

Partnerships are automatically terminated if either or both parties enter into a marriage that is recognized as valid in this state. The OSOS must provide a certificate of termination to each party, maintain a record of each termination, and submit a record of the certificate of termination to the state registrar of vital statistics.

Extension of Rights to Domestic Partners: Certain powers and rights granted to spouses are granted to domestic partners as follows:

- health care facility visitation rights;
- ability to grant informed consent for health care for a patient who is not competent;
- authority of health care providers to disclose information about a patient without the patient's authorization to the patient's state registered domestic partner;
- automatic revocation of the designation of a domestic partner as the beneficiary for nonprobate assets upon termination of the partnership;
- automatic revocation of power of attorney granted to domestic partner upon termination of the partnership;
- title and rights to cemetery plots and rights of interment;
- ability to authorize autopsies and request copies of autopsy reports and records;
- right to control the disposition of the remains of a deceased person;

- ability to consent to removal of human remains from a cemetery plot;
- ability to make anatomical gifts;
- inheritance rights when the domestic partner dies without a will;
- administration of an estate if the domestic partner died without a will or if the representative named in the will declined or was unable to serve;
- beneficiary rights in wrongful death actions; and
- ability to designate a partner's physician as the attorney-in-fact.

PEBB Benefits: A certificate of domestic partnership issued to a same sex couple by the OSOS fulfills eligibility requirements for the same sex partner of the public employee to receive benefits.

Information recorded on death certificates must include domestic partnership status and the surviving partner's information to the same extent that such information is recorded for marital status and the surviving spouse's information.

Votes on Final Passage:

Senate	28	19
House	63	35

Effective: July 22, 2007