
HOUSE BILL 1980

State of Washington

61st Legislature

2009 Regular Session

By Representatives McCune, Shea, Crouse, Schmick, Cox, Roach, Hinkle, and Kristiansen

Read first time 02/04/09. Referred to Committee on Judiciary.

1 AN ACT Relating to reaffirming and protecting the institution and
2 benefits of marriage as a union between a man and a woman; amending RCW
3 26.04.020; adding a new section to chapter 26.04 RCW; creating new
4 sections; repealing RCW 26.60.010, 26.60.020, 26.60.030, 26.60.040,
5 26.60.050, 26.60.060, 26.60.070, and 43.07.400; and declaring an
6 emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** This act shall be known and cited as the
9 Washington state defense of marriage act.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.04 RCW
11 to read as follows:

12 The legislature finds that marriage has been defined throughout
13 time as the union of a husband and wife, and that this union is
14 fundamental and universal. Marriage provides the foundation of a
15 harmonious family life and is the basic building block of a society.
16 The development, productivity, and happiness of our children and new
17 generations to come are bound inextricably to the family unit. As a

1 result, marriage bears a significant and essential relationship to the
2 well-being, health, and enduring strength of society as a whole.

3 The legislature further finds it is a compelling interest of the
4 state of Washington to reaffirm its historical commitment to the
5 institution of marriage as a union between one man and one woman as
6 husband and wife and to protect that institution. In order to secure
7 and preserve the benefits of marriage for our generation and for future
8 generations, only the union between a man and a woman shall constitute
9 a legally recognizable and valid marital relationship with only spouses
10 entitled to all the benefits of legal marriage under state law.

11 The legislature further finds that same-sex partnerships are not
12 the legal equivalent of lawful marriage and that same-sex partners
13 should not be treated by state law the same as or similarly to legally
14 married spouses. Giving persons in domestic partnerships all or
15 substantially all the legal incidents of lawful marriage under state
16 law not only denigrates the historical understanding of the institution
17 of traditional marriage as being between a man and a woman, but also
18 creates the legal equivalent of the marital union itself without using
19 the term "marriage" and subjects the state of Washington to potential
20 litigation by same-sex partners demanding that the courts impose same-
21 sex marriage.

22 The legislature notes with serious concerns that the California
23 supreme court recently imposed same-sex marriage in that state by
24 finding that the failure to designate the official relationship of
25 same-sex couples in domestic partnerships as "marriage" violated the
26 California constitution. In doing so, the California supreme court
27 noted that under that state's comprehensive domestic partnership
28 legislation a same-sex couple could enter into a legal relationship
29 that afforded the couple virtually all of the same substantive legal
30 benefits and privileges, and imposed upon the couple virtually all of
31 the same legal obligations and duties, that California law afforded to
32 and imposed upon a married couple. The court then held that the
33 California constitution prohibited the state from establishing a
34 statutory scheme in which both opposite-sex and same-sex couples are
35 granted the right to enter into an officially recognized family
36 relationship that affords all of the significant legal rights and
37 obligations traditionally associated under state law with the
38 institution of marriage, but under which the union of an opposite-sex

1 couple is officially designated a "marriage" whereas the union of a
2 same-sex couple is officially designated a "domestic partnership."
3 Therefore, the legislature intends by this act to repeal, nullify, or
4 void all provisions, applications, or effects of domestic partnerships
5 as established in chapter 6, Laws of 2008 and chapter 156, Laws of
6 2007.

7 **Sec. 3.** RCW 26.04.020 and 1998 c 1 s 4 are each amended to read as
8 follows:

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

10 (a) When either party thereto has a wife or husband living at the
11 time of such marriage;

12 (b) When the husband and wife are nearer of kin to each other than
13 second cousins, whether of the whole or half blood computing by the
14 rules of the civil law; or

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

16 (2) It is unlawful for any man to marry his father's sister,
17 mother's sister, daughter, sister, son's daughter, daughter's daughter,
18 brother's daughter or sister's daughter; it is unlawful for any woman
19 to marry her father's brother, mother's brother, son, brother, son's
20 son, daughter's son, brother's son or sister's son.

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

25 (4)(a) The uniting of two persons into some form of nonmarital
26 domestic relationship, including any civil union, domestic partnership,
27 reciprocal beneficiary, or other similar relationship, is not legally
28 recognizable or valid in this state.

29 (b) A person united in some form of nonmarital domestic
30 relationship, including any civil union, domestic partnership,
31 reciprocal beneficiary, or other similar relationship, shall not
32 qualify for, or receive, any spousal, familial, or marital right,
33 benefit, privilege, advantage, attribute, incident, immunity, or
34 entitlement, or otherwise, or any equivalent thereof, that is paid for,
35 directly or indirectly, in whole or in part, with state funds.

36 (c) The state does not create or recognize a legal status for
37 persons united in some form of nonmarital domestic relationship,

1 including any civil union, domestic partnership, reciprocal
2 beneficiary, or other similar relationship, that intends to or does
3 approximate the design, qualities, significance, or effect of marriage,
4 or extends or confers the legal incidents thereof, including any
5 spousal, familial, or marital right, benefit, privilege, advantage,
6 attribute, incident, immunity, or entitlement, or otherwise, or any
7 equivalent thereof, that is authorized or recognized by law, or is paid
8 for, directly or indirectly, in whole or in part, with state funds.

9 (d) Nothing in this section prevents or shall be construed as
10 preventing private parties from contracting between and among
11 themselves for any right, benefit, privilege, advantage, attribute,
12 incident, immunity, or entitlement, or any equivalent thereof, that is
13 not otherwise expressly prohibited by law.

14 NEW SECTION. Sec. 4. A state registered domestic partnership that
15 has been created prior to the effective date of this act is hereby
16 declared null and void and of no legal effect. Any references in state
17 law regarding state registered domestic partnership or state registered
18 domestic partner are hereby declared null and void and of no legal
19 effect.

20 NEW SECTION. Sec. 5. The code reviser shall note wherever state
21 registered domestic partnership or state registered domestic partner is
22 used or referred to in state law that the underlying statutes creating
23 state registered domestic partnerships have been repealed. The code
24 reviser shall prepare legislation for the next session following the
25 2009 regular session that removes all statutory references to state
26 registered domestic partnerships or state registered domestic partners.

27 NEW SECTION. Sec. 6. If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. Sec. 7. The following acts or parts of acts are each
32 repealed:

33 (1) RCW 26.60.010 (Legislative findings) and 2007 c 156 s 1;

34 (2) RCW 26.60.020 (Definitions) and 2007 c 156 s 2;

- 1 (3) RCW 26.60.030 (Requirements) and 2007 c 156 s 4;
2 (4) RCW 26.60.040 (Registration--Records--Fees) and 2007 c 156 s 5;
3 (5) RCW 26.60.050 (Termination--Records--Fees) and 2008 c 6 s 1002
4 & 2007 c 156 s 6;
5 (6) RCW 26.60.060 (Domestic partnerships created by subdivisions of
6 the state) and 2007 c 156 s 7;
7 (7) RCW 26.60.070 (Patient visitation) and 2007 c 156 s 8; and
8 (8) RCW 43.07.400 (Domestic partnership registry--Forms--Rules) and
9 2007 c 156 s 3.

10 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately.

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