

SENATE BILL REPORT

ESSB 6239

As Passed Senate, February 1, 2012

Title: An act relating to providing equal protection for all families in Washington by creating equality in civil marriage and changing the domestic partnership laws, while protecting religious freedom.

Brief Description: Concerning civil marriage and domestic partnerships.

Sponsors: Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Murray, Pflug, Hobbs, Litzow, Kohl-Welles, Ranker, Tom, Harper, Pridemore, Keiser, Kline, Regala, Eide, Rolfes, McAuliffe, Brown, Nelson, Chase, Fraser, Frockt, Conway, Kilmer and Prentice; by request of Governor Gregoire).

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 1/23/12, 1/26/12 [DPS, DNP].
Passed Senate: 2/01/12, 28-21.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 6239 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Chase and Nelson.

Minority Report: Do not pass.

Signed by Senators Swecker, Ranking Minority Member; Benton and Roach.

Staff: Sharon Swanson (786-7447)

Background: Defense of Marriage Act. In 1998 the Legislature amended the marriage statutes to provide that marriage is a civil contract between a man and a woman and explicitly states that marriage between persons other than a male and a female is prohibited.

State-Registered Domestic Partners. Same sex couples and opposite sex couples in which one person is at least 62 years of age or older, may enter into state-registered domestic partnerships. For all purposes under state law, registered domestic partners must be treated the same as married persons. Terms such as spouse, marriage, husband and wife must be

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interpreted to apply equally to registered domestic partners as to married persons, to the extent the interpretation does not conflict with federal law.

Reciprocity. A legal union of two persons of the same sex that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership must be recognized as a valid domestic partnership in Washington and must be treated as a domestic partnership registered in Washington regardless of whether it bears the name domestic partnership.

Summary of Engrossed Substitute Bill: Marriage. Marriage is a civil contract between two persons who are at least 18 years old and who are otherwise capable. A person cannot marry if that person has a spouse or registered domestic partner living at the time of such marriage, unless the registered domestic partner is the other party to the marriage.

The list of officers and persons, active or retired, who are authorized to solemnize marriages is amended to include imams, rabbis, or similar official of any religious organization.

Religious Exemption. No regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization is required to solemnize or recognize any marriage.

A regularly licensed or ordained minister or priest, imam, rabbi, or similar official of any religious organization must be immune from any civil claim or cause of action based on a refusal to solemnize or recognize any marriage.

No state agency or local government may base a decision to penalize, withhold benefits from, or refuse to contract with any religious organization on the refusal of a person associated with such religious organization to solemnize or recognize a marriage.

No religious organization is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of marriage.

A religious organization must be immune from any civil claim or cause of action, including a claim pursuant to RCW 49.60, based on its refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

Recognize is defined as providing religious-based services that:

- are delivered by a religious organization, or by an individual who is managed, supervised, or directed by a religious organization; and
- are designed for married couples or couples engaged to marry and are directly related to solemnizing, celebrating, strengthening, or promoting a marriage, such as religious counseling programs, courses, retreats, and workshops.

Religious organization includes, but is not limited to, churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

Religious organization must be interpreted liberally to include faith-based social service organizations involved in social service directed at the larger community. Religious based educational institutions must not be required to provide accommodations, facilities, advantages, privileges, service, or goods related to the solemnization or celebration of a marriage.

Nothing in this act must be construed to alter or affect existing law regarding the manner in which a religious or nonprofit organization may be licensed to and provide adoption, foster care, or other child-placing services.

Domestic Partnerships. To enter into a state-registered domestic partnership the two persons must both share a common residence, both persons must be at least 18 years old, and at least one of the persons must be at least 62 years old.

Partners in a state-registered domestic partnership may apply and receive a marriage license and have such marriage solemnized so long as the parties are otherwise eligible to marry, and the parties to the marriage are the same as the parties to the state-registered domestic partnership. A state-registered domestic partnership is dissolved by operation of law by any marriage of the same parties to each other, as of the date of the marriage stated in the certificate.

Any state-registered domestic partnership in which the parties are the same sex, and neither party is at least 62 years old, that has not been dissolved or converted into marriage by the parties by June 30, 2014, is automatically merged into a marriage as of June 30, 2014.

If the parties to a state-registered domestic partnership have proceedings for dissolution, annulment, or legal separation pending as of June 30, 2014, the parties are not automatically merged into marriage and the dissolution, annulment, or legal separation of the state-registered domestic partnership must be governed by the statutes applicable to state-registered domestic partnerships in effect prior to June 30, 2014.

For the purposes of determining the legal rights and responsibilities involving individuals who had previously had a state-registered domestic partnership and have been issued a marriage license or are deemed married, the date of the original state-registered domestic partnership is the legal date of the marriage.

Reciprocity. If two persons in Washington have a legal union, other than a marriage, that was validly formed in another state or jurisdiction; provides substantially the same rights, benefits, and responsibilities as a marriage; and does not meet the definition of domestic partnership; the parties must be treated as having the same rights and responsibilities as married spouses in this state unless the relationship is otherwise prohibited by law or the parties become permanent residents of Washington and do not marry within one year after becoming permanent residents.

A legal union, other than a marriage, of two persons that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership must be recognized as a valid domestic partnership in Washington regardless of whether it bears the name domestic partnership.

Notice. The Secretary of State is required to send a letter to the mailing address on file of each same-sex, state-registered domestic partner notifying the person that the laws relating to state-registered domestic partners will change in relation to certain same-sex registered domestic partners. The notice must provide a brief summary of the new law and must clearly state that provisions related to certain same-sex registered domestic partnerships will change as of the effective dates of this act, and that those same-sex registered domestic partnerships that are not dissolved prior to June 30, 2014, will be converted to marriage as an act of law. The Secretary of State is required to send a second notice by May 1, 2014.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Sections 8 and 9 take effect on June 30, 2014, but only if all other provisions of the act are implemented.

Staff Summary of Public Testimony: PRO: This is a bill about equality. Same sex couples have families, homes, and children, just as heterosexual couples do. We should be allow to marry and have our relationships recognized and honored by the state. My children should not be told that their family isn't the same as their school friends' families. Separate but equal is no longer the law of the land. Separate but equal is not equal. Marriage for all is equal. My state should send the message that people can marry and build a life with whomever they fall in love with. My love for my partner is no less than the love any of you have for your husband or wife. Why should my love and commitment carry a different name? If I am able to marry, I will never again be questioned about the legitimacy of my family. I will never again be forced to explain to a nurse that I have the right to see my partner and make medical decisions. Everyone knows what marriage means. If I am married I will not be forced to travel with a packet of papers that says what my rights are—people know what a marriage is. They know what rights a marriage brings. I want to stand before my family and friends and commit my love for my partner in a marriage ceremony.

CON: God created marriage just as he created man and woman. If this committee redefines marriage to be genderless, you are saying that you know better than God. Children should be raised in two parent households with mothers and fathers. Children need both parents. My values and my religious beliefs are being discriminated against. Less than 1 percent of the people in this state are in a domestic partnership but now that small number of people get to decide the law of this state? This bill will force faith based adoption agencies to close their doors. This bill will cause churches to be sued and forced to perform gay marriages. What has happened to religious freedom in this state? This bill is yet another example of declining morality in this country. Marriage is about procreation and creating a stable, loving environment for children. Marriage should not be about advancing a social agenda. If we are to legalize same sex marriage is the next step legalizing polygamy? God is very clear about what will happen to those who rebel against His word. The Legislature just enacted the everything but marriage legislation a year ago. Why isn't that enough? Why can't we allow everything but marriage to have enough time to be fully implemented? So few same sex people are in a domestic partnership it defies logic as to why we need to change the marriage

statutes. This bill grants no new rights; same sex couples already have everything but marriage.

Persons Testifying: PRO: Kathy Sakahora, League of Women Voters; Anita Yandle, Young Democrats of WA; Lucy Homans, WA State Psychological Assn.; Joe McDermott, King County; Lucinda Young, WA Education Assn.; Jim Kabler, Parents & Friends of Lesbians & Gays; Brennan Smith, Rachel Smith-Mosel, Equal Rights WA; Pablo Monroy, Service Members United; Rev. Loise Van Leer, Woodinville United For Marriage; Rabbi Jonathan Singer, Temple Beth Am; Jim Justin, Office of the Governor; Shawn Morinko, Human Rights Commission; Flora Espinoza, Colonel Grethe Cammermeyer, Steve Bell, Curtis Knapp, Michael Shiosaki, Tim Coley, Alan Steinman, Gina Gonzales, Ann Eldson, Ashleigh Brock, Jean Scribner, Rick Scribner, Matthew Burgess, citizens.

CON: Cindy Deresch, Operation Rolling Thunder; Stephen Pidgeon, Shoma Yisrael; Joe Fuiten, Cedar Park Church; Archbishop Peter Sartain, Archdiocese of Seattle; Sister Mary Matthew; Congregation of the Sisters of St. Joseph of Peace; Scott Manley, David McIver, Ken Hutchenson, Steve O'Ban, Jennifer Roback-Morse, Christopher Plante, Joseph Backholm, Austin R. Nimocks, Tom Taylor, David Tomlinson, Rebecca Foust, Kiki Haddon, Marie Layman, Robert Rigg, Chris Berger, Ronald Moth, Rosyln Gore, citizens.