
SENATE BILL 6239

State of Washington

62nd Legislature

2012 Regular Session

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

Read first time 01/16/12. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to providing equal protection for all families in
2 Washington by creating equality in civil marriage and changing the
3 domestic partnership laws, while protecting religious freedom; amending
4 RCW 26.04.010, 26.04.020, 26.04.050, 26.04.060, 26.04.070, 26.60.010,
5 26.60.030, 26.60.090, and 1.12.080; adding new sections to chapter
6 26.04 RCW; adding a new section to chapter 26.60 RCW; creating new
7 sections; and providing a contingent effective date.

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

9 NEW SECTION. **Sec. 1.** (1) It is the intent of this act to end
10 discrimination in marriage based on gender and sexual orientation in
11 Washington, to ensure that all persons in this state may enjoy the
12 freedom to marry on equal terms, while also respecting the religious
13 freedom of clergy and religious institutions to determine for whom to
14 perform marriage ceremonies and to determine which marriages to
15 recognize for religious purposes.

16 (2) No official of any religious denomination or nonprofit
17 institution authorized to solemnize marriages may be required to
18 solemnize any marriage in violation of his or her right to free

1 exercise of religion guaranteed by the First Amendment to the United
2 States Constitution or by the Washington state Constitution.

3 **Sec. 2.** RCW 26.04.010 and 1998 c 1 s 3 are each amended to read as
4 follows:

5 (1) Marriage is a civil contract between (~~a male and a female~~)
6 two persons who have each attained the age of eighteen years, and who
7 are otherwise capable.

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

13 (3) Where necessary to implement the rights and responsibilities of
14 spouses under the law, gender specific terms such as husband and wife
15 used in any statute, rule, or other law must be construed to be gender
16 neutral and applicable to spouses of the same sex.

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

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

20 (a) When either party thereto has a (~~wife or husband~~) spouse or
21 registered domestic partner living at the time of such marriage, unless
22 the registered domestic partner is the other party to the marriage; or

23 (b) When the (~~husband and wife~~) spouses are nearer of kin to each
24 other than second cousins, whether of the whole or half blood computing
25 by the rules of the civil law(~~or~~

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

27 (2) It is unlawful for any (~~man to marry his father's sister,~~
28 ~~mother's sister, daughter, sister, son's daughter, daughter's daughter,~~
29 ~~brother's daughter or sister's daughter; it is unlawful for any woman~~
30 ~~to marry her father's brother, mother's brother, son, brother, son's~~
31 ~~son, daughter's son, brother's son or sister's son~~) person to marry
32 his or her sibling, child, grandchild, aunt, uncle, niece, or nephew.

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

1 (4) A legal union, other than a marriage, between two individuals
2 that was validly formed in another state or jurisdiction and that
3 provides substantially the same rights, benefits, and responsibilities
4 as a marriage, does not prohibit those same two individuals from
5 obtaining a marriage license in Washington.

6 **Sec. 4.** RCW 26.04.050 and 2007 c 29 s 1 are each amended to read
7 as follows:

8 (1) The following named officers and persons, active or retired,
9 are hereby authorized to solemnize marriages, to wit: Justices of the
10 supreme court, judges of the court of appeals, judges of the superior
11 courts, supreme court commissioners, court of appeals commissioners,
12 superior court commissioners, any regularly licensed or ordained
13 minister or any priest, imam, rabbi, or similar official of any church
14 or religious denomination, and judges of courts of limited jurisdiction
15 as defined in RCW 3.02.010.

16 (2) No regularly licensed or ordained minister or any priest, imam,
17 rabbi, or similar official of any church or religious denomination is
18 required to solemnize any marriage. A refusal to solemnize any
19 marriage under this section by a regularly licensed or ordained
20 minister or priest, imam, rabbi, or similar official of any church or
21 religious denomination does not create a civil claim or cause of
22 action. No state agency or local government may base a decision to
23 penalize, withhold benefits from, or refuse to contract with any church
24 or religious denomination on the refusal of a person associated with
25 such church or religious denomination to solemnize a marriage under
26 this section.

27 **Sec. 5.** RCW 26.04.060 and 1975-'76 2nd ex.s. c 42 s 25 are each
28 amended to read as follows:

29 A marriage solemnized before any person professing to be a minister
30 or a priest (~~of any~~), imam, rabbi, or similar official of any church
31 or religious denomination in this state or professing to be an
32 authorized officer thereof, is not void, nor shall the validity thereof
33 be in any way affected on account of any want of power or authority in
34 such person, if such marriage be consummated with a belief on the part
35 of the persons so married, or either of them, that they have been
36 lawfully joined in marriage.

1 **Sec. 6.** RCW 26.04.070 and Code 1881 s 2383 are each amended to
2 read as follows:

3 In the solemnization of marriage no particular form is required,
4 except that the parties thereto shall assent or declare in the presence
5 of the minister, priest, imam, rabbi, or similar official of any church
6 or religious denomination, or judicial officer solemnizing the same,
7 and in the presence of at least two attending witnesses, that they take
8 each other to be husband and wife.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 26.04 RCW
10 to read as follows:

11 (1) Consistent with the law against discrimination, chapter 49.60
12 RCW, no religious organization is required to provide accommodations,
13 facilities, advantages, privileges, services, or goods related to the
14 solemnization or celebration of a marriage unless the organization
15 offers admission, occupancy, or use of those accommodations or
16 facilities to the public for a fee, or offers those advantages,
17 privileges, services, or goods to the public for sale.

18 (2) A refusal by any religious organization to provide
19 accommodations, facilities, advantages, privileges, services, or goods
20 related to the solemnization or celebration of a marriage does not
21 create a civil claim or cause of action unless the organization offers
22 those accommodations, facilities, advantages, privileges, services, or
23 goods to the public in transactions governed by law against
24 discrimination, chapter 49.60 RCW.

25 **Sec. 8.** RCW 26.60.010 and 2007 c 156 s 1 are each amended to read
26 as follows:

27 Many Washingtonians are in intimate, committed, and exclusive
28 relationships with another person to whom they are not legally married.
29 These relationships are important to the individuals involved and their
30 families; they also benefit the public by providing a private source of
31 mutual support for the financial, physical, and emotional health of
32 those individuals and their families. The public has an interest in
33 providing a legal framework for such mutually supportive relationships,
34 whether the partners are of the same or different sexes, and
35 irrespective of their sexual orientation.

1 (~~The legislature finds that same sex couples, because they cannot~~
2 ~~marry in this state, do not automatically have the same access that~~
3 ~~married couples have to certain rights and benefits, such as those~~
4 ~~associated with hospital visitation, health care decision-making, organ~~
5 ~~donation decisions, and other issues related to illness, incapacity,~~
6 ~~and death. Although many of these rights and benefits may be secured~~
7 ~~by private agreement, doing so often is costly and complex.))~~

8 The legislature ((~~also~~)) finds that the public interest would be
9 served by extending rights and benefits to ((~~different sex~~)) couples in
10 which either or both of the partners ((~~is~~)) are at least sixty-two
11 years of age. While these couples are entitled to marry under the
12 state's marriage statutes, some social security and pension laws
13 nevertheless make it impractical for these couples to marry. For this
14 reason, chapter 156, Laws of 2007 specifically allows couples to enter
15 into a state registered domestic partnership if one of the persons is
16 at least sixty-two years of age, the age at which many people choose to
17 retire and are eligible to begin collecting social security and pension
18 benefits.

19 The rights granted to state registered domestic partners in chapter
20 156, Laws of 2007 will further Washington's interest in promoting
21 family relationships and protecting family members during life crises.
22 Chapter 156, Laws of 2007 does not affect marriage or any other ways in
23 which legal rights and responsibilities between two adults may be
24 created, recognized, or given effect in Washington.

25 **Sec. 9.** RCW 26.60.030 and 2007 c 156 s 4 are each amended to read
26 as follows:

27 To enter into a state registered domestic partnership the two
28 persons involved must meet the following requirements:

29 (1) Both persons share a common residence;

30 (2) Both persons are at least eighteen years of age and at least
31 one of the persons is sixty-two years of age or older;

32 (3) Neither person is married to someone other than the party to
33 the domestic partnership and neither person is in a state registered
34 domestic partnership with another person;

35 (4) Both persons are capable of consenting to the domestic
36 partnership; and

37 (5) Both of the following are true:

1 (a) The persons are not nearer of kin to each other than second
2 cousins, whether of the whole or half blood computing by the rules of
3 the civil law; and

4 (b) Neither person is a sibling, child, grandchild, aunt, uncle,
5 niece, or nephew to the other person(~~(; and~~

6 ~~(6) Either (a) both persons are members of the same sex; or (b) at~~
7 ~~least one of the persons is sixty two years of age or older)).~~

8 NEW SECTION. **Sec. 10.** A new section is added to chapter 26.60 RCW
9 to read as follows:

10 (1) Partners in a state registered domestic partnership may apply
11 and receive a marriage license and have such marriage solemnized
12 pursuant to chapter 26.04 RCW, so long as the parties are otherwise
13 eligible to marry, and the parties to the marriage are the same as the
14 parties to the state registered domestic partnership.

15 (2) A state registered domestic partnership is dissolved by
16 operation of law by any marriage of the same parties to each other, as
17 of the date of the marriage stated in the certificate.

18 (3)(a) Except as provided in (b) of this subsection, any state
19 registered domestic partnership in which the parties are the same sex,
20 and neither party is sixty-two years of age or older, that has not been
21 dissolved or converted into a marriage by the parties by June 30, 2014,
22 is automatically merged into a marriage and is deemed a marriage as of
23 June 30, 2014.

24 (b) If the parties to a state registered domestic partnership have
25 proceedings for dissolution, annulment, or legal separation pending as
26 of June 30, 2014, the parties' state registered domestic partnership is
27 not automatically merged into a marriage and the dissolution,
28 annulment, or legal separation of the state registered domestic
29 partnership is governed by the provisions of the statutes applicable to
30 state registered domestic partnerships in effect before June 30, 2014.
31 If such proceedings are finalized without dissolution, annulment, or
32 legal separation, the state registered domestic partnership is
33 automatically merged into a marriage and is deemed a marriage as of
34 June 30, 2014.

35 (4) For purposes of determining the legal rights and
36 responsibilities involving individuals who had previously had a state
37 registered domestic partnership and have been issued a marriage license

1 or are deemed married under the provisions of this section, the date of
2 the original state registered domestic partnership is the legal date of
3 the marriage. Nothing in this subsection prohibits a different date
4 from being included on the marriage license.

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

7 If two persons in Washington have a legal union, other than a
8 marriage, that:

- 9 (1) Was validly formed in another state or jurisdiction;
10 (2) Provides substantially the same rights, benefits, and
11 responsibilities as a marriage; and
12 (3) Does not meet the definition of domestic partnership in RCW
13 26.60.030,

14 then they shall be treated as having the same rights and
15 responsibilities as married spouses in this state, unless:

16 (a) Such relationship is prohibited by RCW 26.04.020 (1)(a) or (2);
17 or

18 (b) They become permanent residents of Washington state and do not
19 enter into a marriage within one year after becoming permanent
20 residents.

21 **Sec. 12.** RCW 26.60.090 and 2011 c 9 s 1 are each amended to read
22 as follows:

23 A legal union, other than a marriage, of two persons (~~of the same~~
24 ~~sex~~) that was validly formed in another jurisdiction, and that is
25 substantially equivalent to a domestic partnership under this chapter,
26 shall be recognized as a valid domestic partnership in this state and
27 shall be treated the same as a domestic partnership registered in this
28 state regardless of whether it bears the name domestic partnership.

29 **Sec. 13.** RCW 1.12.080 and 2011 c 9 s 2 are each amended to read as
30 follows:

31 For the purposes of this code and any legislation hereafter enacted
32 by the legislature or by the people, with the exception of chapter
33 26.04 RCW, the terms spouse, marriage, marital, husband, wife, widow,
34 widower, next of kin, and family shall be interpreted as applying
35 equally to state registered domestic partnerships or individuals in

1 state registered domestic partnerships as well as to marital
2 relationships and married persons, and references to dissolution of
3 marriage shall apply equally to state registered domestic partnerships
4 that have been terminated, dissolved, or invalidated, unless the
5 legislation expressly states otherwise and to the extent that such
6 interpretation does not conflict with federal law. Where necessary to
7 implement chapter 521, Laws of 2009 and this act, gender-specific terms
8 such as husband and wife used in any statute, rule, or other law shall
9 be construed to be gender neutral, and applicable to individuals in
10 state registered domestic partnerships and spouses of the same sex.

11 NEW SECTION. **Sec. 14.** (1) Within sixty days after the effective
12 date of this section, the secretary of state shall send a letter to the
13 mailing address on file of each same-sex domestic partner registered
14 under chapter 26.60 RCW notifying the person that Washington's law on
15 the rights and responsibilities of state registered domestic partners
16 will change in relation to certain same-sex registered domestic
17 partners.

18 (2) The notice must provide a brief summary of the new law and must
19 clearly state that provisions related to certain same-sex registered
20 domestic partnerships will change as of the effective dates of this
21 act, and that those same-sex registered domestic partnerships that are
22 not dissolved prior to June 30, 2014, will be converted to marriage as
23 an act of law.

24 (3) The secretary of state shall send a second similar notice to
25 the mailing address on file of each domestic partner registered under
26 chapter 26.60 RCW by May 1, 2014.

27 NEW SECTION. **Sec. 15.** Sections 8 and 9 of this act take effect
28 June 30, 2014, but only if all other provisions of this act are
29 implemented.

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