

HOUSE BILL REPORT

HB 1727

As Reported by House Committee On:
Judiciary
Ways & Means

Title: An act relating to further expanding the rights and responsibilities of state registered domestic partners.

Brief Description: Expanding the rights and responsibilities of state registered domestic partners.

Sponsors: Representatives Pedersen, Walsh, Moeller, Johnson, Carlyle, Quall, Sullivan, Maxwell, Roberts, Chase, Upthegrove, White, Conway, Nelson, Cody, Hudgins, Morris, Eddy, Lias, Kagi, Ormsby, Rolfes, Clibborn, Dunshee, Pettigrew, Springer, Hunter, Williams, Blake, Darneille, Goodman, Dickerson, Hasegawa, Linville, Kenney, Appleton, Van De Wege, Kessler, Santos, Sells, O'Brien, Ericks, Wallace, McCoy, Kirby, Haigh, Takko, Hurst, Seaquist, Wood, Flannigan, Orwall, Jacks, Finn, Hunt, Simpson and Driscoll.

Brief History:

Committee Activity:

Judiciary: 2/5/09, 2/12/09 [DPS];

Ways & Means: 2/24/09, 2/27/09 [DP2S(w/o sub JUDI)].

Brief Summary of Second Substitute Bill

- Provides that for all purposes under state law, state registered domestic partners shall be treated the same as married spouses and that provisions of the act shall be liberally construed to achieve equal treatment, to the extent not in conflict with federal law.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Flannigan, Kelley, Kirby, Ormsby and Roberts.

Minority Report: Do not pass. Signed by 4 members: Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Ross and Warnick.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Trudes Tango (786-7384)

Background:

In 2007 the Legislature created the domestic partnership registry in the Office of the Secretary of the State (OSOS). Couples may register as domestic partners if they meet certain criteria and if the parties are the same sex or one of the parties is at least 62 years old. At the time the registry was created, state registered domestic partnerships could be terminated by either party by filing a notice of termination with the OSOS.

The 2007 legislation extended to domestic partners certain rights and responsibilities that are granted to or imposed on spouses. Those rights and responsibilities generally involved areas of law dealing with health care decision-making, hospital visitation, powers of attorney, and death and burial issues. In addition, the 2007 legislation provided that a certificate of domestic partnership issued by the OSOS fulfills the eligibility requirements for a same-sex partner of a public employee to receive benefits under the Public Employees Benefits Board.

In 2008 the Legislature extended more rights and responsibilities to state registered domestic partners. The legislation amended statutes related to dissolutions, community property, estate planning, taxes, court process, service to indigent veterans and other public assistance, conflicts of interest for public officials, and guardianships. The legislation limited the nonjudicial process for terminating a domestic partnership to those domestic partners meeting certain criteria, which include: neither partner has minor children or is pregnant; the domestic partnership is not more than five years in duration; the partners do not own property over a certain dollar amount; and the partners both agree to the termination. Domestic partners not meeting the criteria must file a dissolution with the court to terminate their domestic partnership.

Summary of Substitute Bill:

It is the Legislature's intent that, for all purposes under state law, state registered domestic partners shall be treated the same as married spouses. Any privilege, immunity, right, benefit, or responsibility granted or imposed by statute, administrative or court rule, policy, common law or any other law to a person because he or she is a spouse, shall also be granted or imposed on equivalent terms, substantive and procedural, to a person because he or she is in a state registered domestic partnership.

Subject to available funds, agencies must amend their rules to reflect the Legislature's intent. Language is added to the Revised Code of Washington (RCW or Code) stating that, except for chapter 26.04 RCW (marriage), the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted to apply equally to state registered domestic partners and married persons, to the extent such interpretation does not conflict with federal law.

The nonjudicial termination process available to domestic partners is repealed. To terminate a domestic partnership the parties must file for dissolution. A certificate of domestic

partnership issued by the OSOS to different-sex couples fulfills eligibility requirements for the domestic partner of a public employee to receive benefits.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) adds language regarding interpretation of terms to Title 1 RCW (Rules of Construction and General Definitions), stating that it applies throughout the Code, except for chapter 26.04 RCW (Marriage); (2) adds language regarding interpretation of terms to 10 chapters that were not originally included in the bill; (3) removes language regarding interpretation of terms from chapter 26.21A RCW (Uniform Interstate Family Support Act); (4) removes reference to domestic partners in the definition of "married" in the statute dealing with sex offenses; (5) provides that agencies amend their rules subject to the availability of funds; and (6) delays the effective date for any changes made to the Basic Health Plan.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Sections 5 through 8 (judicial retirement system), 73 (colleges and universities), 79 (local improvements and guaranty funds), 87 (state health care), 89 through 105 (pensions for public employees), 109 (pensions for Washington State Patrol), 153 (state-subsidized health insurance), 175 (public assistance), 177 (medical care under public assistance), and 192 through 194 (estate tax) of this act take effect January 1, 2012. Sections 167 and 168 (Department of Corrections) take effect August 1, 2009. All other sections of the bill take effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The idea of this bill is to provide equal treatment for domestic partners under state law. The bill does not bind other states or change federal law. The bill in 2007 provided some basic benefits and protection for same-sex couples and elderly couples. Since then, rights for domestic partners have expanded to include community property and protection of the courts in dissolution proceedings. The bill provides better financial security for families and gives people in same-sex relationships equal respect. Domestic partners live the same types of lives as other married couples. Unlike married couples, domestic partners must spend money, hire attorneys, and create specific documents to make sure they have the same protections and rights as spouses. Without the legal recognition for domestic partners, it can be difficult to perform tasks like picking up the kids from school. Domestic partners cannot receive pension benefits the way a spouse does. Every family deserves concrete and clear guidance to feel secure. Predictability and fairness in the law are critical. Washington should not discriminate against families. The current law makes things more equal in areas of family law and probate and trust, but it is not enough. This bill would secure more legal protections for domestic partners.

(Opposed) Washington has a significant interest in continuing to define marriage as between one man and one woman. Marriage between a man and a woman exists for the greater good and social order. The bill would demolish the historic definition of marriage. There are thousands of studies showing that children do best when they are raised by a mother and father. An unintended consequence of this bill would be the collapse of the public education system. Faith-based organizations would encourage their members to pull their children out of public schools if schools are required to teach about same sex marriage. In places where there has been an increase in same-sex relationships, there has been a resulting loss of religious freedom to citizens. The state should not demand that people change their belief about marriage. Adoption agencies and private businesses and churches would not be able to have policies based on their belief about marriage. There will be lawsuits and complaints filed against people who do not want to offer services to same-sex couples. This is an issue that the voters should decide. This bill is not about discrimination against certain people because the state discriminates against other loving relationships in a number of contexts. Given the state budget crisis, it does not make sense for the Legislature to increase expenses by increasing benefits to unmarried couples. This bill is a "Trojan horse" for same-sex marriage. The traditional family unit benefits children and the culture; government should be encouraging stronger marriages, not expanding rights to domestic partners.

Persons Testifying: (In support) Representative Pedersen, prime sponsor; Larry deGroen; Amy Hallmond; Grethe Cammermeyer; Diane Divelbess; David Cremeens; Amie Bishop; Benjamin Bishop; Michael Wrenn; Carol McKinley, Washington Unitarian Universal Voices for Justice; Salvador Mungia, Washington State Bar Association; David Iseminger; and Richard Lum.

(Opposed) Larry Stickney, Washington Values Alliance/Faith and Freedom Network; Robert Struble, Knights of Columbus; Ron Boehme, Youth With a Mission; Ronald Emmons, Coalition of Orting Churches; Jim Galbraith, Facts for Freedom; Roy Hartwell, Rivers of Glory Church; Anne Culbertson, Fourth Corner of Lynden; Austin Nimocks, Alliance Defense Fund; Joseph Backholm, Family Values Institute of Washington; Maureen Richardson, Concerned Women for America; Peter Keelakevich, Harvest Christian Center International; Kim Sheley, Washington State Catholic Conference; Valerie Vicknair, Women of the City; Daniel Meyer; and Mary Coday.

Persons Signed In To Testify But Not Testifying: (Opposed) Tom Walker; Daren Schober; Pat Coffey; Dimitriy Petrilk, Harvest Christian Center International; Susan Bradrick; Anne Gamwell; Charles Bennett; Valerie Hartwell, Rivers of Glory Church; Jarrell Owens; Rebecca Small; Richard Wood, Orting Community Baptist Church; Timothy Miller; Katherine Cassady; Lisa Flores; Hugh Fleet; Kevin Lea; Arlene Noyes; Denise Holland; Janna Anderson; Ron Wesselin; Vince Walner; Anne McDivit; Philip Irvin; Will Marron; Maria Lancaster; Susan Mischel; Randall Leskovar, Calvary Chapel of West Seattle.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Judiciary. Signed by 16 members: Representatives Linville, Chair; Ericks, Vice Chair; Dammeier, Assistant

Ranking Minority Member; Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Priest, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 6 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Chandler, Hinkle, Ross and Schmick.

Staff: David Pringle (786-7310)

Summary of Recommendation of Committee On Ways & Means Compared to Recommendation of Committee On Judiciary:

The Ways and Means recommendation removes changes to the interpretation of "domestic partner" for the chapter of state law governing the Health Care Authority which would have permitted recognition of some opposite-sex domestic partners, in addition to the same-sex domestic partners already covered by the chapter. The Ways and Means recommendation also removes the January 1, 2012, delayed effective date applicable to the Higher Education Retirement Plans, and extends the delayed effective date from January 1, 2012, to January 1, 2014, for several provisions including those affecting the Washington State Retirement Systems.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: Sections 5 through 8 (judicial retirement system), 73 (colleges and universities), 79 (local improvements and guaranty funds), 87 (state health care), 89 through 105 (pensions for public employees), 109 (pensions for Washington State Patrol), 153 (state-subsidized health insurance), 175 (public assistance), 177 (medical care under public assistance), and 192 through 194 (estate tax) of this act take effect January 1, 2012. Sections 167 and 168 (Department of Corrections) take effect August 1, 2009. All other sections of the bill take effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.