
ENGROSSED SUBSTITUTE HOUSE BILL 1130

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Thompson, Koster, Mulliken, L. Thomas, Bush, Backlund, Dunn, Sump, Mielke, Pennington, Talcott, Chandler, Johnson, Lambert, D. Sommers, Sheahan, McDonald, D. Schmidt, McMorris, Sterk, Boldt, Crouse, Benson, DeBolt and Sherstad)

Read first time 02/10/97.

1 AN ACT Relating to reaffirming and protecting the institution of
2 marriage; amending RCW 26.04.010 and 26.04.020; adding a new section to
3 chapter 9A.04 RCW; creating new sections; and providing for submission
4 of this act to a vote of the people.

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

6 NEW SECTION. **Sec. 1.** (1) In P.L. 104-199; 110 Stat. 219, the
7 Defense of Marriage Act, Congress granted authority to the individual
8 states to either grant or deny recognition of same-sex marriages
9 recognized as valid in another state. The Defense of Marriage Act
10 defines marriage for purposes of federal law as a legal union between
11 one man and one woman as husband and wife and provides that a state
12 shall not be required to give effect to any public act or judicial
13 proceeding of any other state respecting marriage between persons of
14 the same sex if the state has determined that it will not recognize
15 same-sex marriages.

16 (2) The legislature and the people of the state of Washington find
17 that matters pertaining to marriage are matters reserved to the
18 sovereign states and, therefore, such matters should be determined by

1 the people within each individual state and not by the people or courts
2 of a different state.

3 NEW SECTION. Sec. 2. (1) It is a compelling interest of the state
4 of Washington to reaffirm its historical commitment to the institution
5 of marriage as a union between a man and a woman as husband and wife
6 and to protect that institution.

7 (2) The court in *Singer v. Hara*, 11 Wn. App. 247 (1974) held that
8 the Washington state marriage statute does not allow marriage between
9 persons of the same sex. It is the intent of the legislature by this
10 act to codify the *Singer* opinion and to fully exercise the authority
11 granted the individual states by Congress in P.L. 104-199; 110 Stat.
12 219, the Defense of Marriage Act, to establish public policy against
13 same-sex marriage in statutory law that clearly and definitively
14 declares same-sex marriages will not be recognized in Washington, even
15 if they are made legal in other states.

16 **Sec. 3.** RCW 26.04.010 and 1973 1st ex.s. c 154 s 26 are each
17 amended to read as follows:

18 (1) Marriage is a civil contract (~~((which may be entered into by~~
19 ~~persons of))~~ between a male and a female who have each attained the age
20 of eighteen years, and who are otherwise capable(~~((:—PROVIDED, That))~~).

21 (2) Every marriage entered into in which either (~~((party shall not~~
22 ~~have))~~ the husband or the wife has not attained the age of seventeen
23 years (~~((shall be))~~) is void except where this section has been waived by
24 a superior court judge of the county in which one of the parties
25 resides on a showing of necessity.

26 **Sec. 4.** RCW 26.04.020 and 1927 c 189 s 1 are each amended to read
27 as follows:

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

29 (~~((1))~~) (a) When either party thereto has a wife or husband living
30 at the time of such marriage(~~((-))~~);

31 (~~((2))~~) (b) When the (~~((parties thereto))~~) husband and wife are
32 nearer of kin to each other than second cousins, whether of the whole
33 or half blood computing by the rules of the civil law; or

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

35 (~~((3))~~) (2) It (~~((shall be))~~) is unlawful for any man to marry his
36 father's sister, mother's sister, daughter, sister, son's daughter,

1 daughter's daughter, brother's daughter or sister's daughter; it
2 (~~shall be~~) is unlawful for any woman to marry her father's brother,
3 mother's brother, son, brother, son's son, daughter's son, brother's
4 son or sister's son.

5 (3) A marriage between two persons that is recognized as valid in
6 another jurisdiction is valid in this state only if the marriage is not
7 prohibited or made unlawful under this section.

8 NEW SECTION. Sec. 5. A new section is added to chapter 9A.04 RCW
9 to read as follows:

10 The legislature finds that political speech is one of the highest
11 forms of protected speech under the state and federal constitutions and
12 that persons who are engaged in public debate on a political issue
13 whether before the legislature or on the ballot as an initiative or
14 referendum deserve the highest protections of the law. The legislature
15 further finds that it is egregious when individuals commit criminal
16 acts against other persons for any reason and that it is especially
17 egregious when individuals commit criminal acts against other persons
18 who are engaged in public debate simply because they disagree with the
19 political speech or stance of the victim. The legislature hereby
20 declares that individuals who commit such criminal acts against the
21 person or property of others must be expeditiously prosecuted and
22 appropriately punished in order to maintain public safety, protect law-
23 abiding persons, and ensure the guarantee of free speech for every
24 citizen.

25 NEW SECTION. Sec. 6. In recognition of the fact that it has been
26 the sole and continuous policy of both the territory and the state of
27 Washington to limit the definition of legal marriage to a civil
28 contract between a male and female and that Washington case law has
29 long upheld the right of the state to limit the definition of legal
30 marriage so as to not include same-sex marriages, this act is remedial
31 in nature and takes effect retroactively as of January 1, 1997, as it
32 applies to cases involving same-sex marriage.

33 NEW SECTION. Sec. 7. If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 8.** This act shall be submitted to the people
2 for their adoption and ratification, or rejection, in accordance with
3 Article II, section 1, of the state Constitution, and the laws adopted
4 to facilitate the operation thereof, at a state-wide special election
5 ordered by the legislature to be held in this state on the date
6 specified for a state primary in RCW 29.13.070.

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