
SENATE BILL 5336

State of Washington 60th Legislature 2007 Regular Session

By Senators Murray, Kohl-Welles, Fairley, Prentice, Regala, Oemig, Tom, Kline, Hobbs, Pridemore, Keiser, Berkey, Franklin, Brown, Weinstein, Rockefeller, Poulsen, Fraser, Jacobsen, Spanel and McAuliffe

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1 AN ACT Relating to protecting individuals in domestic partnerships
2 by granting certain rights and benefits; amending RCW 41.05.065,
3 7.70.065, 70.02.050, 11.07.010, 11.94.080, 68.32.020, 68.32.030,
4 68.32.040, 68.32.060, 68.32.110, 68.32.130, 68.50.100, 68.50.101,
5 68.50.105, 68.50.160, 68.50.200, 68.50.550, 11.04.015, and 11.28.120;
6 adding a new section to chapter 43.07 RCW; adding a new section to
7 chapter 41.05 RCW; and adding a new chapter to Title 26 RCW.

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

9 NEW SECTION. **Sec. 1.** Many Washingtonians are in intimate,
10 committed, and exclusive relationships with another person to whom they
11 are not legally married. These relationships are important to the
12 individuals involved and their families; they also benefit the public
13 by providing a private source of mutual support for the financial,
14 physical, and emotional health of those individuals and their families.
15 The public has an interest in providing a legal framework for such
16 mutually supportive relationships, whether the partners are of the same
17 or different sexes, and irrespective of their sexual orientation.

18 The legislature finds that same sex couples, because they cannot
19 marry in this state, do not automatically have the same access that

1 married couples have to certain rights and benefits, such as those
2 associated with hospital visitation, health care decision-making, organ
3 donation decisions, and other issues related to illness, incapacity,
4 and death. Although many of these rights and benefits may be secured
5 by private agreement, doing so often is costly and complex.

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

16 The rights granted to state registered domestic partners in this
17 act will further Washington's interest in promoting family
18 relationships and protecting family members during life crises. This
19 act does not affect marriage or any other ways in which legal rights
20 and responsibilities between two adults may be created, recognized, or
21 given effect in Washington.

22 NEW SECTION. **Sec. 2.** The definitions in this section apply
23 throughout this chapter unless the context clearly requires otherwise.

24 (1) "State registered domestic partners" means two adults who meet
25 the requirements for a valid state registered domestic partnership as
26 established by section 4 of this act and who have been issued a
27 certificate of state registered domestic partnership by the secretary.

28 (2) "Secretary" means the secretary of state's office.

29 (3) "Share a common residence" means inhabit the same residence.
30 Two persons shall be considered to share a common residence even if:

31 (a) Only one of the domestic partners has legal ownership of the
32 common residence;

33 (b) One or both domestic partners have additional residences not
34 shared with the other domestic partner; or

35 (c) One domestic partner leaves the common residence with the
36 intent to return.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.07 RCW
2 to read as follows:

3 (1) The state domestic partnership registry is created within the
4 secretary of state's office.

5 (2)(a) The secretary shall prepare forms entitled "declaration of
6 state registered domestic partnership" and "notice of termination of
7 state registered domestic partnership" to meet the requirements of this
8 chapter.

9 (b) The "declaration of state registered domestic partnership" form
10 must contain a statement that registration may affect property and
11 inheritance rights, that registration is not a substitute for a will,
12 deed, or partnership agreement, and that any rights conferred by
13 registration may be completely superseded by a will, deed, or other
14 instrument that may be executed by either party. The form must also
15 contain instructions on how the partnership may be terminated.

16 (c) The "notice of termination of state registered domestic
17 partnership" form must contain a statement that termination may affect
18 property and inheritance rights, including beneficiary designations,
19 and other agreements, such as the appointment of a state registered
20 domestic partner as an attorney in fact under a power of attorney.

21 (3) The secretary shall distribute these forms to each county
22 clerk. These forms shall be available to the public at the secretary
23 of state's office, each county clerk, and on the internet.

24 (4) The secretary shall adopt rules necessary to implement the
25 administration of the state domestic partnership registry.

26 NEW SECTION. **Sec. 4.** To enter into a state registered domestic
27 partnership the following requirements must be met:

28 (1) Both persons share a common residence;

29 (2) Both persons are at least eighteen years of age;

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

33 (4) Both persons are capable of consenting to the domestic
34 partnership;

35 (5) Both of the following are true:

36 (a) The persons are not nearer of kin to each other than second

1 cousins, whether of the whole or half blood computing by the rules of
2 the civil law; and

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

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

7 NEW SECTION. **Sec. 5.** (1) Two persons desiring to become state
8 registered domestic partners who meet the requirements of section 4 of
9 this act may register their domestic partnership by filing a
10 declaration of state registered domestic partnership with the secretary
11 and paying the filing fee established pursuant to subsection (4) of
12 this section. The declaration must be signed by both parties and
13 notarized.

14 (2) Upon receipt of a signed, notarized declaration and the filing
15 fee, the secretary shall register the declaration and provide a
16 certificate of state registered domestic partnership to each party
17 named on the declaration.

18 (3) The secretary shall permanently maintain a record of each
19 declaration of state registered domestic partnership filed with the
20 secretary. The secretary shall submit a copy of the declaration and
21 certificate to the state registrar of vital statistics.

22 (4) The secretary shall set by rule and collect a reasonable fee
23 for filing the declaration, calculated to cover the secretary's costs,
24 but not to exceed fifty dollars.

25 NEW SECTION. **Sec. 6.** (1)(a) A party to a state registered
26 domestic partnership may terminate the relationship by filing a notice
27 of termination of the state registered domestic partnership with the
28 secretary and paying the filing fee established pursuant to subsection
29 (5) of this section. The notice must be signed by one or both parties
30 and notarized. If the notice is not signed by both parties, the party
31 seeking termination must also file with the secretary an affidavit
32 stating either that the other party has been served in writing in the
33 manner prescribed for the service of summons in a civil action, that a
34 notice of termination is being filed or that the party seeking
35 termination has not been able to find the other party after reasonable

1 effort and that notice has been made by publication pursuant to (b) of
2 this subsection.

3 (b) When the other party cannot be found after reasonable effort,
4 the party seeking termination may provide notice by publication in a
5 newspaper of general circulation in the county in which the residence
6 most recently shared by the domestic partners is located. Notice must
7 be published at least once.

8 (2) The state registered domestic partnership shall be terminated
9 effective ninety days after the date of filing the notice of
10 termination and payment of the filing fee.

11 (3) Upon receipt of a signed, notarized notice of termination,
12 affidavit, if required, and the filing fee, the secretary shall
13 register the notice of termination and provide a certificate of
14 termination of the state registered domestic partnership to each party
15 named on the notice. The secretary shall maintain a record of each
16 notice of termination filed with the secretary and each certificate of
17 termination issued by the secretary. The secretary shall submit a copy
18 of the certificate of termination to the state registrar of vital
19 statistics.

20 (4) A state registered domestic partnership is automatically
21 terminated if, subsequent to the registration of the domestic
22 partnership with the secretary, either or both the parties enter into
23 a marriage that is recognized as valid in this state, either with each
24 other or with another person.

25 (5) The secretary shall set by rule and collect a reasonable fee
26 for filing the declaration, calculated to cover the secretary's costs,
27 but not to exceed fifty dollars.

28 NEW SECTION. **Sec. 7.** (1)(a) A domestic partnership created by a
29 subdivision of the state is not a state registered domestic partnership
30 for the purposes of a state registered domestic partnership under this
31 chapter. Those persons desiring to become state registered domestic
32 partners under this chapter must register pursuant to section 5 of this
33 act.

34 (b)(i) If a subdivision of the state chooses to use the definition
35 of state registered domestic partners set forth in section 2 of this
36 act for the subdivision's purpose, the subdivision shall notify the

1 secretary and shall allow the use of the declaration of state
2 registered domestic partnership to satisfy any registration
3 requirements.

4 (ii) If the secretary receives a declaration of state registered
5 domestic partnership for persons living within a subdivision that has
6 notified the secretary under (b) of this subsection, the secretary
7 shall give the state registered domestic partners the option to have a
8 copy of the declaration sent to the appropriate agency within the
9 subdivision.

10 (c) Nothing in this section shall affect domestic partnerships
11 created by any public entity.

12 (2) A domestic partnership, civil union, or reciprocal beneficiary
13 relationship, in which the persons meet the requirements of section 4
14 of this act, that is registered with another state shall be recognized
15 in Washington as a state registered domestic partnership entitling the
16 parties to the rights and benefits established under this act.

17 NEW SECTION. **Sec. 8.** A patient's state registered domestic
18 partner shall have the same rights as a spouse with respect to
19 visitation of the patient in a health care facility as defined in RCW
20 48.43.005.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 41.05 RCW
22 to read as follows:

23 A certificate of domestic partnership issued under the provisions
24 of section 4 of this act shall be recognized as evidence of a qualified
25 same sex domestic partnership fulfilling all necessary eligibility
26 criteria for the partner of the employee to receive benefits. Nothing
27 in this section affects the requirements of same sex domestic partners
28 to complete documentation related to federal tax status that may
29 currently be required by the board for employees choosing to make
30 premium payments on a pretax basis.

31 **Sec. 10.** RCW 41.05.065 and 2006 c 299 s 2 are each amended to read
32 as follows:

33 (1) The board shall study all matters connected with the provision
34 of health care coverage, life insurance, liability insurance,
35 accidental death and dismemberment insurance, and disability income

1 insurance or any of, or a combination of, the enumerated types of
2 insurance for employees and their dependents on the best basis possible
3 with relation both to the welfare of the employees and to the state.
4 However, liability insurance shall not be made available to dependents.

5 (2) The board shall develop employee benefit plans that include
6 comprehensive health care benefits for all employees. In developing
7 these plans, the board shall consider the following elements:

8 (a) Methods of maximizing cost containment while ensuring access to
9 quality health care;

10 (b) Development of provider arrangements that encourage cost
11 containment and ensure access to quality care, including but not
12 limited to prepaid delivery systems and prospective payment methods;

13 (c) Wellness incentives that focus on proven strategies, such as
14 smoking cessation, injury and accident prevention, reduction of alcohol
15 misuse, appropriate weight reduction, exercise, automobile and
16 motorcycle safety, blood cholesterol reduction, and nutrition
17 education;

18 (d) Utilization review procedures including, but not limited to a
19 cost-efficient method for prior authorization of services, hospital
20 inpatient length of stay review, requirements for use of outpatient
21 surgeries and second opinions for surgeries, review of invoices or
22 claims submitted by service providers, and performance audit of
23 providers;

24 (e) Effective coordination of benefits;

25 (f) Minimum standards for insuring entities; and

26 (g) Minimum scope and content of public employee benefit plans to
27 be offered to enrollees participating in the employee health benefit
28 plans. To maintain the comprehensive nature of employee health care
29 benefits, employee eligibility criteria related to the number of hours
30 worked and the benefits provided to employees shall be substantially
31 equivalent to the state employees' health benefits plan and eligibility
32 criteria in effect on January 1, 1993. Nothing in this subsection
33 (2)(g) shall prohibit changes or increases in employee point-of-service
34 payments or employee premium payments for benefits or the
35 administration of a high deductible health plan in conjunction with a
36 health savings account.

37 (3) The board shall design benefits and determine the terms and
38 conditions of employee and retired employee participation and coverage,

1 including establishment of eligibility criteria subject to the
2 requirements of section 9 of this act. The same terms and conditions
3 of participation and coverage, including eligibility criteria, shall
4 apply to state employees and to school district employees and
5 educational service district employees.

6 (4) The board may authorize premium contributions for an employee
7 and the employee's dependents in a manner that encourages the use of
8 cost-efficient managed health care systems. During the 2005-2007
9 fiscal biennium, the board may only authorize premium contributions for
10 an employee and the employee's dependents that are the same, regardless
11 of an employee's status as represented or nonrepresented by a
12 collective bargaining unit under the personnel system reform act of
13 2002. The board shall require participating school district and
14 educational service district employees to pay at least the same
15 employee premiums by plan and family size as state employees pay.

16 (5) The board shall develop a health savings account option for
17 employees that conform to section 223, Part VII of subchapter B of
18 chapter 1 of the internal revenue code of 1986. The board shall comply
19 with all applicable federal standards related to the establishment of
20 health savings accounts.

21 (6) Notwithstanding any other provision of this chapter, the board
22 shall develop a high deductible health plan to be offered in
23 conjunction with a health savings account developed under subsection
24 (5) of this section.

25 (7) Employees shall choose participation in one of the health care
26 benefit plans developed by the board and may be permitted to waive
27 coverage under terms and conditions established by the board.

28 (8) The board shall review plans proposed by insuring entities that
29 desire to offer property insurance and/or accident and casualty
30 insurance to state employees through payroll deduction. The board may
31 approve any such plan for payroll deduction by insuring entities
32 holding a valid certificate of authority in the state of Washington and
33 which the board determines to be in the best interests of employees and
34 the state. The board shall promulgate rules setting forth criteria by
35 which it shall evaluate the plans.

36 (9) Before January 1, 1998, the public employees' benefits board
37 shall make available one or more fully insured long-term care insurance
38 plans that comply with the requirements of chapter 48.84 RCW. Such

1 programs shall be made available to eligible employees, retired
2 employees, and retired school employees as well as eligible dependents
3 which, for the purpose of this section, includes the parents of the
4 employee or retiree and the parents of the spouse of the employee or
5 retiree. Employees of local governments and employees of political
6 subdivisions not otherwise enrolled in the public employees' benefits
7 board sponsored medical programs may enroll under terms and conditions
8 established by the administrator, if it does not jeopardize the
9 financial viability of the public employees' benefits board's long-term
10 care offering.

11 (a) Participation of eligible employees or retired employees and
12 retired school employees in any long-term care insurance plan made
13 available by the public employees' benefits board is voluntary and
14 shall not be subject to binding arbitration under chapter 41.56 RCW.
15 Participation is subject to reasonable underwriting guidelines and
16 eligibility rules established by the public employees' benefits board
17 and the health care authority.

18 (b) The employee, retired employee, and retired school employee are
19 solely responsible for the payment of the premium rates developed by
20 the health care authority. The health care authority is authorized to
21 charge a reasonable administrative fee in addition to the premium
22 charged by the long-term care insurer, which shall include the health
23 care authority's cost of administration, marketing, and consumer
24 education materials prepared by the health care authority and the
25 office of the insurance commissioner.

26 (c) To the extent administratively possible, the state shall
27 establish an automatic payroll or pension deduction system for the
28 payment of the long-term care insurance premiums.

29 (d) The public employees' benefits board and the health care
30 authority shall establish a technical advisory committee to provide
31 advice in the development of the benefit design and establishment of
32 underwriting guidelines and eligibility rules. The committee shall
33 also advise the board and authority on effective and cost-effective
34 ways to market and distribute the long-term care product. The
35 technical advisory committee shall be comprised, at a minimum, of
36 representatives of the office of the insurance commissioner, providers
37 of long-term care services, licensed insurance agents with expertise in

1 long-term care insurance, employees, retired employees, retired school
2 employees, and other interested parties determined to be appropriate by
3 the board.

4 (e) The health care authority shall offer employees, retired
5 employees, and retired school employees the option of purchasing long-
6 term care insurance through licensed agents or brokers appointed by the
7 long-term care insurer. The authority, in consultation with the public
8 employees' benefits board, shall establish marketing procedures and may
9 consider all premium components as a part of the contract negotiations
10 with the long-term care insurer.

11 (f) In developing the long-term care insurance benefit designs, the
12 public employees' benefits board shall include an alternative plan of
13 care benefit, including adult day services, as approved by the office
14 of the insurance commissioner.

15 (g) The health care authority, with the cooperation of the office
16 of the insurance commissioner, shall develop a consumer education
17 program for the eligible employees, retired employees, and retired
18 school employees designed to provide education on the potential need
19 for long-term care, methods of financing long-term care, and the
20 availability of long-term care insurance products including the
21 products offered by the board.

22 (h) By December 1998, the health care authority, in consultation
23 with the public employees' benefits board, shall submit a report to the
24 appropriate committees of the legislature, including an analysis of the
25 marketing and distribution of the long-term care insurance provided
26 under this section.

27 **Sec. 11.** RCW 7.70.065 and 2006 c 93 s 1 are each amended to read
28 as follows:

29 (1) Informed consent for health care for a patient who is not
30 competent, as defined in RCW 11.88.010(1)(e), to consent may be
31 obtained from a person authorized to consent on behalf of such patient.

32 (a) Persons authorized to provide informed consent to health care
33 on behalf of a patient who is not competent to consent, based upon a
34 reason other than incapacity as defined in RCW 11.88.010(1)(d), shall
35 be a member of one of the following classes of persons in the following
36 order of priority:

37 (i) The appointed guardian of the patient, if any;

1 (ii) The individual, if any, to whom the patient has given a
2 durable power of attorney that encompasses the authority to make health
3 care decisions;

4 (iii) The patient's spouse or state registered domestic partner;

5 (iv) Children of the patient who are at least eighteen years of
6 age;

7 (v) Parents of the patient; and

8 (vi) Adult brothers and sisters of the patient.

9 (b) If the health care provider seeking informed consent for
10 proposed health care of the patient who is not competent to consent
11 under RCW 11.88.010(1)(e), other than a person determined to be
12 incapacitated because he or she is under the age of majority and who is
13 not otherwise authorized to provide informed consent, makes reasonable
14 efforts to locate and secure authorization from a competent person in
15 the first or succeeding class and finds no such person available,
16 authorization may be given by any person in the next class in the order
17 of descending priority. However, no person under this section may
18 provide informed consent to health care:

19 (i) If a person of higher priority under this section has refused
20 to give such authorization; or

21 (ii) If there are two or more individuals in the same class and the
22 decision is not unanimous among all available members of that class.

23 (c) Before any person authorized to provide informed consent on
24 behalf of a patient not competent to consent under RCW 11.88.010(1)(e),
25 other than a person determined to be incapacitated because he or she is
26 under the age of majority and who is not otherwise authorized to
27 provide informed consent, exercises that authority, the person must
28 first determine in good faith that that patient, if competent, would
29 consent to the proposed health care. If such a determination cannot be
30 made, the decision to consent to the proposed health care may be made
31 only after determining that the proposed health care is in the
32 patient's best interests.

33 (2) Informed consent for health care, including mental health care,
34 for a patient who is not competent, as defined in RCW 11.88.010(1)(e),
35 because he or she is under the age of majority and who is not otherwise
36 authorized to provide informed consent, may be obtained from a person
37 authorized to consent on behalf of such a patient.

1 (a) Persons authorized to provide informed consent to health care,
2 including mental health care, on behalf of a patient who is
3 incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is
4 under the age of majority and who is not otherwise authorized to
5 provide informed consent, shall be a member of one of the following
6 classes of persons in the following order of priority:

7 (i) The appointed guardian, or legal custodian authorized pursuant
8 to Title 26 RCW, of the minor patient, if any;

9 (ii) A person authorized by the court to consent to medical care
10 for a child in out-of-home placement pursuant to chapter 13.32A or
11 13.34 RCW, if any;

12 (iii) Parents of the minor patient;

13 (iv) The individual, if any, to whom the minor's parent has given
14 a signed authorization to make health care decisions for the minor
15 patient; and

16 (v) A competent adult representing himself or herself to be a
17 relative responsible for the health care of such minor patient or a
18 competent adult who has signed and dated a declaration under penalty of
19 perjury pursuant to RCW 9A.72.085 stating that the adult person is a
20 relative responsible for the health care of the minor patient. Such
21 declaration shall be effective for up to six months from the date of
22 the declaration.

23 (b) A health care provider may, but is not required to, rely on the
24 representations or declaration of a person claiming to be a relative
25 responsible for the care of the minor patient, under (a)(v) of this
26 subsection, if the health care provider does not have actual notice of
27 the falsity of any of the statements made by the person claiming to be
28 a relative responsible for the health care of the minor patient.

29 (c) A health care facility or a health care provider may, in its
30 discretion, require documentation of a person's claimed status as being
31 a relative responsible for the health care of the minor patient.
32 However, there is no obligation to require such documentation.

33 (d) The health care provider or health care facility where services
34 are rendered shall be immune from suit in any action, civil or
35 criminal, or from professional or other disciplinary action when such
36 reliance is based on a declaration signed under penalty of perjury
37 pursuant to RCW 9A.72.085 stating that the adult person is a relative

1 responsible for the health care of the minor patient under (a)(v) of
2 this subsection.

3 (3) For the purposes of this section, "health care," "health care
4 provider," and "health care facility" shall be defined as established
5 in RCW 70.02.010.

6 **Sec. 12.** RCW 70.02.050 and 2006 c 235 s 3 are each amended to read
7 as follows:

8 (1) A health care provider or health care facility may disclose
9 health care information about a patient without the patient's
10 authorization to the extent a recipient needs to know the information,
11 if the disclosure is:

12 (a) To a person who the provider or facility reasonably believes is
13 providing health care to the patient;

14 (b) To any other person who requires health care information for
15 health care education, or to provide planning, quality assurance, peer
16 review, or administrative, legal, financial, actuarial services to, or
17 other health care operations for or on behalf of the health care
18 provider or health care facility; or for assisting the health care
19 provider or health care facility in the delivery of health care and the
20 health care provider or health care facility reasonably believes that
21 the person:

22 (i) Will not use or disclose the health care information for any
23 other purpose; and

24 (ii) Will take appropriate steps to protect the health care
25 information;

26 (c) To any other health care provider or health care facility
27 reasonably believed to have previously provided health care to the
28 patient, to the extent necessary to provide health care to the patient,
29 unless the patient has instructed the health care provider or health
30 care facility in writing not to make the disclosure;

31 (d) To any person if the health care provider or health care
32 facility reasonably believes that disclosure will avoid or minimize an
33 imminent danger to the health or safety of the patient or any other
34 individual, however there is no obligation under this chapter on the
35 part of the provider or facility to so disclose;

36 (e) To immediate family members of the patient, including a
37 patient's state registered domestic partner, or any other individual

1 with whom the patient is known to have a close personal relationship,
2 if made in accordance with good medical or other professional practice,
3 unless the patient has instructed the health care provider or health
4 care facility in writing not to make the disclosure;

5 (f) To a health care provider or health care facility who is the
6 successor in interest to the health care provider or health care
7 facility maintaining the health care information;

8 (g) For use in a research project that an institutional review
9 board has determined:

10 (i) Is of sufficient importance to outweigh the intrusion into the
11 privacy of the patient that would result from the disclosure;

12 (ii) Is impracticable without the use or disclosure of the health
13 care information in individually identifiable form;

14 (iii) Contains reasonable safeguards to protect the information
15 from redisclosure;

16 (iv) Contains reasonable safeguards to protect against identifying,
17 directly or indirectly, any patient in any report of the research
18 project; and

19 (v) Contains procedures to remove or destroy at the earliest
20 opportunity, consistent with the purposes of the project, information
21 that would enable the patient to be identified, unless an institutional
22 review board authorizes retention of identifying information for
23 purposes of another research project;

24 (h) To a person who obtains information for purposes of an audit,
25 if that person agrees in writing to:

26 (i) Remove or destroy, at the earliest opportunity consistent with
27 the purpose of the audit, information that would enable the patient to
28 be identified; and

29 (ii) Not to disclose the information further, except to accomplish
30 the audit or report unlawful or improper conduct involving fraud in
31 payment for health care by a health care provider or patient, or other
32 unlawful conduct by the health care provider;

33 (i) To an official of a penal or other custodial institution in
34 which the patient is detained;

35 (j) To provide directory information, unless the patient has
36 instructed the health care provider or health care facility not to make
37 the disclosure;

1 (k) To fire, police, sheriff, or another public authority, that
2 brought, or caused to be brought, the patient to the health care
3 facility or health care provider if the disclosure is limited to the
4 patient's name, residence, sex, age, occupation, condition, diagnosis,
5 estimated or actual discharge date, or extent and location of injuries
6 as determined by a physician, and whether the patient was conscious
7 when admitted;

8 (l) To federal, state, or local law enforcement authorities and the
9 health care provider, health care facility, or third-party payor
10 believes in good faith that the health care information disclosed
11 constitutes evidence of criminal conduct that occurred on the premises
12 of the health care provider, health care facility, or third-party
13 payor;

14 (m) To another health care provider, health care facility, or
15 third-party payor for the health care operations of the health care
16 provider, health care facility, or third-party payor that receives the
17 information, if each entity has or had a relationship with the patient
18 who is the subject of the health care information being requested, the
19 health care information pertains to such relationship, and the
20 disclosure is for the purposes described in RCW 70.02.010(8) (a) and
21 (b); or

22 (n) For payment.

23 (2) A health care provider shall disclose health care information
24 about a patient without the patient's authorization if the disclosure
25 is:

26 (a) To federal, state, or local public health authorities, to the
27 extent the health care provider is required by law to report health
28 care information; when needed to determine compliance with state or
29 federal licensure, certification or registration rules or laws; or when
30 needed to protect the public health;

31 (b) To federal, state, or local law enforcement authorities to the
32 extent the health care provider is required by law;

33 (c) To federal, state, or local law enforcement authorities, upon
34 receipt of a written or oral request made to a nursing supervisor,
35 administrator, or designated privacy official, in a case in which the
36 patient is being treated or has been treated for a bullet wound,
37 gunshot wound, powder burn, or other injury arising from or caused by
38 the discharge of a firearm, or an injury caused by a knife, an ice

1 pick, or any other sharp or pointed instrument which federal, state, or
2 local law enforcement authorities reasonably believe to have been
3 intentionally inflicted upon a person, or a blunt force injury that
4 federal, state, or local law enforcement authorities reasonably believe
5 resulted from a criminal act, the following information, if known:

6 (i) The name of the patient;

7 (ii) The patient's residence;

8 (iii) The patient's sex;

9 (iv) The patient's age;

10 (v) The patient's condition;

11 (vi) The patient's diagnosis, or extent and location of injuries as
12 determined by a health care provider;

13 (vii) Whether the patient was conscious when admitted;

14 (viii) The name of the health care provider making the
15 determination in (c)(v), (vi), and (vii) of this subsection;

16 (ix) Whether the patient has been transferred to another facility;
17 and

18 (x) The patient's discharge time and date;

19 (d) To county coroners and medical examiners for the investigations
20 of deaths;

21 (e) Pursuant to compulsory process in accordance with RCW
22 70.02.060.

23 (3) All state or local agencies obtaining patient health care
24 information pursuant to this section shall adopt rules establishing
25 their record acquisition, retention, and security policies that are
26 consistent with this chapter.

27 **Sec. 13.** RCW 11.07.010 and 2002 c 18 s 1 are each amended to read
28 as follows:

29 (1) This section applies to all nonprobate assets, wherever
30 situated, held at the time of entry by a superior court of this state
31 of a decree of dissolution of marriage or a declaration of invalidity
32 or certification of termination of a state registered domestic
33 partnership.

34 (2)(a) If a marriage is dissolved or invalidated, or a state
35 registered domestic partnership terminated, a provision made prior to
36 that event that relates to the payment or transfer at death of the
37 decedent's interest in a nonprobate asset in favor of or granting an

1 interest or power to the decedent's former spouse or state registered
2 domestic partner, is revoked. A provision affected by this section
3 must be interpreted, and the nonprobate asset affected passes, as if
4 the former spouse or former state registered domestic partner, failed
5 to survive the decedent, having died at the time of entry of the decree
6 of dissolution or declaration of invalidity or termination of state
7 registered domestic partnership.

8 (b) This subsection does not apply if and to the extent that:

9 (i) The instrument governing disposition of the nonprobate asset
10 expressly provides otherwise;

11 (ii) The decree of dissolution ((~~or~~)), declaration of invalidity,
12 or other court order requires that the decedent maintain a nonprobate
13 asset for the benefit of a former spouse or former state registered
14 domestic partner or children of the marriage, payable on the decedent's
15 death either outright or in trust, and other nonprobate assets of the
16 decedent fulfilling such a requirement for the benefit of the former
17 spouse or former state registered domestic partner or children of the
18 marriage do not exist at the decedent's death; ((~~or~~))

19 (iii) A court order requires that the decedent maintain a
20 nonprobate asset for the benefit of another, payable on the decedent's
21 death either outright or in a trust, and other nonprobate assets of the
22 decedent fulfilling such a requirement do not exist at the decedent's
23 death; or

24 (iv) If not for this subsection, the decedent could not have
25 effected the revocation by unilateral action because of the terms of
26 the decree ((~~or~~)), declaration, termination of state registered
27 domestic partnership, or for any other reason, immediately after the
28 entry of the decree of dissolution ((~~or~~)), declaration of invalidity,
29 or termination of state registered domestic partnership.

30 (3)(a) A payor or other third party in possession or control of a
31 nonprobate asset at the time of the decedent's death is not liable for
32 making a payment or transferring an interest in a nonprobate asset to
33 a decedent's former spouse or state registered domestic partner, whose
34 interest in the nonprobate asset is revoked under this section, or for
35 taking another action in reliance on the validity of the instrument
36 governing disposition of the nonprobate asset, before the payor or
37 other third party has actual knowledge of the dissolution or other
38 invalidation of marriage or termination of the state registered

1 domestic partnership. A payor or other third party is liable for a
2 payment or transfer made or other action taken after the payor or other
3 third party has actual knowledge of a revocation under this section.

4 (b) This section does not require a payor or other third party to
5 pay or transfer a nonprobate asset to a beneficiary designated in a
6 governing instrument affected by the dissolution or other invalidation
7 of marriage or termination of state registered domestic partnership, or
8 to another person claiming an interest in the nonprobate asset, if the
9 payor or third party has actual knowledge of the existence of a dispute
10 between the former spouse or former state registered domestic partner,
11 and the beneficiaries or other persons concerning rights of ownership
12 of the nonprobate asset as a result of the application of this section
13 among the former spouse or former state registered domestic partner,
14 and the beneficiaries or among other persons, or if the payor or third
15 party is otherwise uncertain as to who is entitled to the nonprobate
16 asset under this section. In such a case, the payor or third party
17 may, without liability, notify in writing all beneficiaries or other
18 persons claiming an interest in the nonprobate asset of either the
19 existence of the dispute or its uncertainty as to who is entitled to
20 payment or transfer of the nonprobate asset. The payor or third party
21 may also, without liability, refuse to pay or transfer a nonprobate
22 asset in such a circumstance to a beneficiary or other person claiming
23 an interest until the time that either:

24 (i) All beneficiaries and other interested persons claiming an
25 interest have consented in writing to the payment or transfer; or

26 (ii) The payment or transfer is authorized or directed by a court
27 of proper jurisdiction.

28 (c) Notwithstanding subsections (1) and (2) of this section and (a)
29 and (b) of this subsection, a payor or other third party having actual
30 knowledge of the existence of a dispute between beneficiaries or other
31 persons concerning rights to a nonprobate asset as a result of the
32 application of this section may condition the payment or transfer of
33 the nonprobate asset on execution, in a form and with security
34 acceptable to the payor or other third party, of a bond in an amount
35 that is double the fair market value of the nonprobate asset at the
36 time of the decedent's death or the amount of an adverse claim,
37 whichever is the lesser, or of a similar instrument to provide security

1 to the payor or other third party, indemnifying the payor or other
2 third party for any liability, loss, damage, costs, and expenses for
3 and on account of payment or transfer of the nonprobate asset.

4 (d) As used in this subsection, "actual knowledge" means, for a
5 payor or other third party in possession or control of the nonprobate
6 asset at or following the decedent's death, written notice to the payor
7 or other third party, or to an officer of a payor or third party in the
8 course of his or her employment, received after the decedent's death
9 and within a time that is sufficient to afford the payor or third party
10 a reasonable opportunity to act upon the knowledge. The notice must
11 identify the nonprobate asset with reasonable specificity. The notice
12 also must be sufficient to inform the payor or other third party of the
13 revocation of the provisions in favor of the decedent's spouse or state
14 registered domestic partner, by reason of the dissolution or
15 invalidation of marriage or termination of state registered domestic
16 partnership, or to inform the payor or third party of a dispute
17 concerning rights to a nonprobate asset as a result of the application
18 of this section. Receipt of the notice for a period of more than
19 thirty days is presumed to be received within a time that is sufficient
20 to afford the payor or third party a reasonable opportunity to act upon
21 the knowledge, but receipt of the notice for a period of less than five
22 business days is presumed not to be a sufficient time for these
23 purposes. These presumptions may be rebutted only by clear and
24 convincing evidence to the contrary.

25 (4)(a) A person who purchases a nonprobate asset from a former
26 spouse, former state registered domestic partner, or other person, for
27 value and without actual knowledge, or who receives from a former
28 spouse, former state registered domestic partner, or other person
29 payment or transfer of a nonprobate asset without actual knowledge and
30 in partial or full satisfaction of a legally enforceable obligation, is
31 neither obligated under this section to return the payment, property,
32 or benefit nor is liable under this section for the amount of the
33 payment or the value of the nonprobate asset. However, a former
34 spouse, former state registered domestic partner, or other person who,
35 with actual knowledge, not for value, or not in satisfaction of a
36 legally enforceable obligation, receives payment or transfer of a
37 nonprobate asset to which that person is not entitled under this
38 section is obligated to return the payment or nonprobate asset, or is

1 personally liable for the amount of the payment or value of the
2 nonprobate asset, to the person who is entitled to it under this
3 section.

4 (b) As used in this subsection, "actual knowledge" means, for a
5 person described in (a) of this subsection who purchases or receives a
6 nonprobate asset from a former spouse, former state registered domestic
7 partner, or other person, personal knowledge or possession of documents
8 relating to the revocation upon dissolution or invalidation of marriage
9 of provisions relating to the payment or transfer at the decedent's
10 death of the nonprobate asset, received within a time after the
11 decedent's death and before the purchase or receipt that is sufficient
12 to afford the person purchasing or receiving the nonprobate asset
13 reasonable opportunity to act upon the knowledge. Receipt of the
14 personal knowledge or possession of the documents for a period of more
15 than thirty days is presumed to be received within a time that is
16 sufficient to afford the payor or third party a reasonable opportunity
17 to act upon the knowledge, but receipt of the notice for a period of
18 less than five business days is presumed not to be a sufficient time
19 for these purposes. These presumptions may be rebutted only by clear
20 and convincing evidence to the contrary.

21 (5) As used in this section, "nonprobate asset" means those rights
22 and interests of a person having beneficial ownership of an asset that
23 pass on the person's death under only the following written instruments
24 or arrangements other than the decedent's will:

25 (a) A payable-on-death provision of a life insurance policy,
26 employee benefit plan, annuity or similar contract, or individual
27 retirement account, unless provided otherwise by controlling federal
28 law;

29 (b) A payable-on-death, trust, or joint with right of survivorship
30 bank account;

31 (c) A trust of which the person is a grantor and that becomes
32 effective or irrevocable only upon the person's death; or

33 (d) Transfer on death beneficiary designations of a transfer on
34 death or pay on death security, if such designations are authorized
35 under Washington law.

36 For the general definition in this title of "nonprobate asset," see
37 RCW 11.02.005(15) and for the definition of "nonprobate asset" relating
38 to testamentary disposition of nonprobate assets, see RCW 11.11.010(7).

1 (6) This section is remedial in nature and applies as of July 25,
2 1993, to decrees of dissolution and declarations of invalidity entered
3 after July 24, 1993, and this section applies as of January 1, 1995, to
4 decrees of dissolution and declarations of invalidity entered before
5 July 25, 1993.

6 **Sec. 14.** RCW 11.94.080 and 2001 c 203 s 1 are each amended to read
7 as follows:

8 (1) An appointment of a principal's spouse or state registered
9 domestic partner, as attorney in fact, including appointment as
10 successor or coattorney in fact, under a power of attorney shall be
11 revoked upon entry of a decree of dissolution or legal separation or
12 declaration of invalidity of the marriage or termination of the state
13 registered domestic partnership of the principal and the attorney in
14 fact, unless the power of attorney or the decree provides otherwise.
15 The effect of this revocation shall be as if the spouse or state
16 registered domestic partner, resigned as attorney in fact, or if named
17 as successor attorney in fact, renounced the appointment, as of the
18 date of entry of the decree or declaration or filing of the certificate
19 of termination of the state registered domestic partnership, and the
20 power of attorney shall otherwise remain in effect with respect to
21 appointments of other persons as attorney in fact for the principal or
22 procedures prescribed in the power of attorney to appoint other
23 persons, and any terms relating to service by persons as attorney in
24 fact.

25 (2) This section applies to all decrees of dissolution and
26 declarations of invalidity of marriage entered after July 22, 2001.

27 **Sec. 15.** RCW 68.32.020 and 2005 c 365 s 92 are each amended to
28 read as follows:

29 The spouse or state registered domestic partner, of an owner of any
30 plot or right of interment containing more than one placement space has
31 a vested right of placement in the plot and any person thereafter
32 becoming the spouse or state registered domestic partner, of the owner
33 has a vested right of placement in the plot if more than one space is
34 unoccupied at the time the person becomes the spouse or state
35 registered domestic partner, of the owner.

1 **Sec. 16.** RCW 68.32.030 and 2005 c 365 s 93 are each amended to
2 read as follows:

3 No conveyance or other action of the owner without the written
4 consent of the spouse or state registered domestic partner, of the
5 owner divests the spouse or state registered domestic partner, of a
6 vested right of placement. A final decree of divorce between them or
7 certification of termination of the state registered domestic
8 partnership terminates the vested right of placement unless otherwise
9 provided in the decree.

10 **Sec. 17.** RCW 68.32.040 and 2005 c 365 s 94 are each amended to
11 read as follows:

12 If no placement is made in a plot or right of interment, which has
13 been transferred by deed or certificate of ownership to an individual
14 owner, the title descends to the surviving spouse or state registered
15 domestic partner. If there is no surviving spouse or state registered
16 domestic partner, the title descends to the heirs at law of the owner.
17 Following death of the owner, if all remains previously placed are
18 lawfully removed and the owner did not dispose of the plot or right of
19 interment by specific devise or by a written declaration filed and
20 recorded in the office of the cemetery authority, the title descends to
21 the surviving spouse or state registered domestic partner. If there is
22 no surviving spouse or state registered domestic partner, the title
23 descends to the heirs at law of the owner.

24 **Sec. 18.** RCW 68.32.060 and 2005 c 365 s 96 are each amended to
25 read as follows:

26 Whenever an interment of the human remains of a member or of a
27 relative of a member of the family of the record owner or of the
28 remains of the record owner is made in a plot transferred by deed or
29 certificate of ownership to an individual owner and both the owner and
30 the surviving spouse or state registered domestic partner, if any, die
31 with children then living without making disposition of the plot either
32 by a specific devise, or by a written declaration filed and recorded in
33 the office of the cemetery authority, the plot shall thereafter be held
34 as a family plot and shall be subject to sale only upon agreement of
35 the children of the owner living at the time of sale.

1 **Sec. 19.** RCW 68.32.110 and 2005 c 365 s 101 are each amended to
2 read as follows:

3 In a family plot one right of interment may be used for the owner's
4 interment and one for the owner's surviving spouse or state registered
5 domestic partner, if any. Any unoccupied spaces may then be used by
6 the remaining parents and children of the deceased owner, if any, then
7 to the spouse or state registered domestic partner of any child of the
8 owner, then to the heirs at law of the owner, in the order of death.

9 **Sec. 20.** RCW 68.32.130 and 2005 c 365 s 102 are each amended to
10 read as follows:

11 Any surviving spouse, state registered domestic partner, parent,
12 child, or heir having a right of placement in a family plot may waive
13 such right in favor of any other relative ((~~or~~)), spouse, or state
14 registered domestic partner of a relative of the deceased owner. Upon
15 such a waiver, the remains of the person in whose favor the waiver is
16 made may be placed in the plot.

17 **Sec. 21.** RCW 68.50.100 and 2003 c 53 s 307 are each amended to
18 read as follows:

19 (1) The right to dissect a dead body shall be limited to cases
20 specially provided by statute or by the direction or will of the
21 deceased; cases where a coroner is authorized to hold an inquest upon
22 the body, and then only as he or she may authorize dissection; and
23 cases where the spouse, state registered domestic partner, or next of
24 kin charged by law with the duty of burial shall authorize dissection
25 for the purpose of ascertaining the cause of death, and then only to
26 the extent so authorized: PROVIDED, That the coroner, in his or her
27 discretion, may make or cause to be made by a competent pathologist,
28 toxicologist, or physician, an autopsy or postmortem in any case in
29 which the coroner has jurisdiction of a body: PROVIDED, FURTHER, That
30 the coroner may with the approval of the University of Washington and
31 with the consent of a parent or guardian deliver any body of a deceased
32 person under the age of three years over which he or she has
33 jurisdiction to the University of Washington medical school for the
34 purpose of having an autopsy made to determine the cause of death.

35 (2) Every person who shall make, cause, or procure to be made any

1 dissection of a body, except as provided in this section, is guilty of
2 a gross misdemeanor.

3 **Sec. 22.** RCW 68.50.101 and 1987 c 331 s 57 are each amended to
4 read as follows:

5 Autopsy or post mortem may be performed in any case where
6 authorization has been given by a member of one of the following
7 classes of persons in the following order of priority:

- 8 (1) The surviving spouse or state registered domestic partner;
- 9 (2) Any child of the decedent who is eighteen years of age or
10 older;
- 11 (3) One of the parents of the decedent;
- 12 (4) Any adult brother or sister of the decedent;
- 13 (5) A person who was guardian of the decedent at the time of death;
- 14 (6) Any other person or agency authorized or under an obligation to
15 dispose of the remains of the decedent. The chief official of any such
16 agency shall designate one or more persons to execute authorizations
17 pursuant to the provisions of this section.

18 If the person seeking authority to perform an autopsy or post
19 mortem makes reasonable efforts to locate and secure authorization from
20 a competent person in the first or succeeding class and finds no such
21 person available, authorization may be given by any person in the next
22 class, in the order of descending priority. However, no person under
23 this section shall have the power to authorize an autopsy or post
24 mortem if a person of higher priority under this section has refused
25 such authorization: PROVIDED, That this section shall not affect
26 autopsies performed pursuant to RCW 68.50.010 or 68.50.103.

27 **Sec. 23.** RCW 68.50.105 and 1987 c 331 s 58 are each amended to
28 read as follows:

29 Reports and records of autopsies or post mortems shall be
30 confidential, except that the following persons may examine and obtain
31 copies of any such report or record: The personal representative of
32 the decedent as defined in RCW 11.02.005, any family member, the
33 attending physician, the prosecuting attorney or law enforcement
34 agencies having jurisdiction, public health officials, or to the
35 department of labor and industries in cases in which it has an interest
36 under RCW 68.50.103.

1 The coroner, the medical examiner, or the attending physician
2 shall, upon request, meet with the family of the decedent to discuss
3 the findings of the autopsy or post mortem. For the purposes of this
4 section, the term "family" means the surviving spouse, state registered
5 domestic partner, or any child, parent, grandparent, grandchild,
6 brother, or sister of the decedent, or any person who was guardian of
7 the decedent at the time of death.

8 **Sec. 24.** RCW 68.50.160 and 2005 c 365 s 141 are each amended to
9 read as follows:

10 (1) A person has the right to control the disposition of his or her
11 own remains without the predeath or postdeath consent of another
12 person. A valid written document expressing the decedent's wishes
13 regarding the place or method of disposition of his or her remains,
14 signed by the decedent in the presence of a witness, is sufficient
15 legal authorization for the procedures to be accomplished.

16 (2) Prearrangements that are prepaid, or filed with a licensed
17 funeral establishment or cemetery authority, under RCW 18.39.280
18 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation
19 or substantial revision by survivors. Absent actual knowledge of
20 contrary legal authorization under this section, a licensed funeral
21 establishment or cemetery authority shall not be held criminally nor
22 civilly liable for acting upon such prearrangements.

23 (3) If the decedent has not made a prearrangement as set forth in
24 subsection (2) of this section or the costs of executing the decedent's
25 wishes regarding the disposition of the decedent's remains exceeds a
26 reasonable amount or directions have not been given by the decedent,
27 the right to control the disposition of the remains of a deceased
28 person vests in, and the duty of disposition and the liability for the
29 reasonable cost of preparation, care, and disposition of such remains
30 devolves upon the following in the order named:

- 31 (a) The surviving spouse or state registered domestic partner.
- 32 (b) The surviving adult children of the decedent.
- 33 (c) The surviving parents of the decedent.
- 34 (d) The surviving siblings of the decedent.
- 35 (e) A person acting as a representative of the decedent under the
36 signed authorization of the decedent.

1 (4) If a cemetery authority as defined in RCW 68.04.190 or a
2 funeral establishment licensed under chapter 18.39 RCW has made a good
3 faith effort to locate the person cited in subsection (3)(a) through
4 (e) of this section or the legal representative of the decedent's
5 estate, the cemetery authority or funeral establishment shall have the
6 right to rely on an authority to bury or cremate the human remains,
7 executed by the most responsible party available, and the cemetery
8 authority or funeral establishment may not be held criminally or
9 civilly liable for burying or cremating the human remains. In the
10 event any government agency provides the funds for the disposition of
11 any human remains and the government agency elects to provide funds for
12 cremation only, the cemetery authority or funeral establishment may not
13 be held criminally or civilly liable for cremating the human remains.

14 (5) The liability for the reasonable cost of preparation, care, and
15 disposition devolves jointly and severally upon all kin of the decedent
16 in the same degree of kindred, in the order listed in subsection (3) of
17 this section, and upon the estate of the decedent.

18 **Sec. 25.** RCW 68.50.200 and 2005 c 365 s 144 are each amended to
19 read as follows:

20 Human remains may be removed from a plot in a cemetery with the
21 consent of the cemetery authority and the written consent of one of the
22 following in the order named:

- 23 (1) The surviving spouse or state registered domestic partner.
- 24 (2) The surviving children of the decedent.
- 25 (3) The surviving parents of the decedent.
- 26 (4) The surviving brothers or sisters of the decedent.

27 If the required consent cannot be obtained, permission by the
28 superior court of the county where the cemetery is situated is
29 sufficient: PROVIDED, That the permission shall not violate the terms
30 of a written contract or the rules and regulations of the cemetery
31 authority.

32 **Sec. 26.** RCW 68.50.550 and 1993 c 228 s 4 are each amended to read
33 as follows:

34 (1) A member of the following classes of persons, in the order of
35 priority listed, absent contrary instructions by the decedent, may make

1 an anatomical gift of all or a part of the decedent's body for an
2 authorized purpose, unless the decedent, at the time of death, had made
3 an unrevoked refusal to make that anatomical gift:

4 (a) The appointed guardian of the person of the decedent at the
5 time of death;

6 (b) The individual, if any, to whom the decedent had given a
7 durable power of attorney that encompassed the authority to make health
8 care decisions;

9 (c) The spouse or state registered domestic partner, of the
10 decedent;

11 (d) A son or daughter of the decedent who is at least eighteen
12 years of age;

13 (e) Either parent of the decedent;

14 (f) A brother or sister of the decedent who is at least eighteen
15 years of age;

16 (g) A grandparent of the decedent.

17 (2) An anatomical gift may not be made by a person listed in
18 subsection (1) of this section if:

19 (a) A person in a prior class is available at the time of death to
20 make an anatomical gift;

21 (b) The person proposing to make an anatomical gift knows of a
22 refusal or contrary indications by the decedent; or

23 (c) The person proposing to make an anatomical gift knows of an
24 objection to making an anatomical gift by a member of the person's
25 class or a prior class.

26 (3) An anatomical gift by a person authorized under subsection (1)
27 of this section must be made by (a) a document of gift signed by the
28 person or (b) the person's telegraphic, recorded telephonic, or other
29 recorded message, or other form of communication from the person that
30 is contemporaneously reduced to writing and signed by the recipient of
31 the communication.

32 (4) An anatomical gift by a person authorized under subsection (1)
33 of this section may be revoked by a member of the same or a prior class
34 if, before procedures have begun for the removal of a part from the
35 body of the decedent, the physician, surgeon, technician, or enucleator
36 removing the part knows of the revocation.

37 (5) A failure to make an anatomical gift under subsection (1) of
38 this section is not an objection to the making of an anatomical gift.

1 **Sec. 27.** RCW 11.04.015 and 1974 ex.s. c 117 s 6 are each amended
2 to read as follows:

3 The net estate of a person dying intestate, or that portion thereof
4 with respect to which the person shall have died intestate, shall
5 descend subject to the provisions of RCW 11.04.250 and 11.02.070, and
6 shall be distributed as follows:

7 (1) Share of surviving spouse or state registered domestic partner.
8 The surviving spouse or state registered domestic partner shall receive
9 the following share:

10 (a) All of the decedent's share of the net community estate; and

11 (b) One-half of the net separate estate if the intestate is
12 survived by issue; or

13 (c) Three-quarters of the net separate estate if there is no
14 surviving issue, but the intestate is survived by one or more of his
15 parents, or by one or more of the issue of one or more of his parents;
16 or

17 (d) All of the net separate estate, if there is no surviving issue
18 nor parent nor issue of parent.

19 (2) Shares of others than surviving spouse or state registered
20 domestic partner. The share of the net estate not distributable to the
21 surviving spouse or state registered domestic partner, or the entire
22 net estate if there is no surviving spouse or state registered domestic
23 partner, shall descend and be distributed as follows:

24 (a) To the issue of the intestate; if they are all in the same
25 degree of kinship to the intestate, they shall take equally, or if of
26 unequal degree, then those of more remote degree shall take by
27 representation.

28 (b) If the intestate not be survived by issue, then to the parent
29 or parents who survive the intestate.

30 (c) If the intestate not be survived by issue or by either parent,
31 then to those issue of the parent or parents who survive the intestate;
32 if they are all in the same degree of kinship to the intestate, they
33 shall take equally, or, if of unequal degree, then those of more remote
34 degree shall take by representation.

35 (d) If the intestate not be survived by issue or by either parent,
36 or by any issue of the parent or parents who survive the intestate,
37 then to the grandparent or grandparents who survive the intestate; if

1 both maternal and paternal grandparents survive the intestate, the
2 maternal grandparent or grandparents shall take one-half and the
3 paternal grandparent or grandparents shall take one-half.

4 (e) If the intestate not be survived by issue or by either parent,
5 or by any issue of the parent or parents or by any grandparent or
6 grandparents, then to those issue of any grandparent or grandparents
7 who survive the intestate; taken as a group, the issue of the maternal
8 grandparent or grandparents shall share equally with the issue of the
9 paternal grandparent or grandparents, also taken as a group; within
10 each such group, all members share equally if they are all in the same
11 degree of kinship to the intestate, or, if some be of unequal degree,
12 then those of more remote degree shall take by representation.

13 **Sec. 28.** RCW 11.28.120 and 1995 1st sp.s. c 18 s 61 are each
14 amended to read as follows:

15 Administration of an estate if the decedent died intestate or if
16 the personal representative or representatives named in the will
17 declined or were unable to serve shall be granted to some one or more
18 of the persons hereinafter mentioned, and they shall be respectively
19 entitled in the following order:

20 (1) The surviving spouse or state registered domestic partner, or
21 such person as he or she may request to have appointed.

22 (2) The next of kin in the following order: (a) Child or children;
23 (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e)
24 nephews or nieces.

25 (3) The trustee named by the decedent in an inter vivos trust
26 instrument, testamentary trustee named in the will, guardian of the
27 person or estate of the decedent, or attorney in fact appointed by the
28 decedent, if any such a fiduciary controlled or potentially controlled
29 substantially all of the decedent's probate and nonprobate assets.

30 (4) One or more of the beneficiaries or transferees of the
31 decedent's probate or nonprobate assets.

32 (5)(a) The director of revenue, or the director's designee, for
33 those estates having property subject to the provisions of chapter
34 11.08 RCW; however, the director may waive this right.

35 (b) The secretary of the department of social and health services
36 for those estates owing debts for long-term care services as defined in
37 RCW 74.39A.008; however the secretary may waive this right.

1 (6) One or more of the principal creditors.

2 (7) If the persons so entitled shall fail for more than forty days
3 after the death of the decedent to present a petition for letters of
4 administration, or if it appears to the satisfaction of the court that
5 there is no next of kin, as above specified eligible to appointment, or
6 they waive their right, and there are no principal creditor or
7 creditors, or such creditor or creditors waive their right, then the
8 court may appoint any suitable person to administer such estate.

9 NEW SECTION. **Sec. 29.** Sections 1, 2, and 4 through 8 of this act
10 constitute a new chapter in Title 26 RCW.

--- END ---