CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5336

Chapter 156, Laws of 2007

60th Legislature
2007 Regular Session

DOMESTIC PARTNERSHIPS

EFFECTIVE DATE: 07/22/07

Passed by the Senate March 1, 2007
YEAS 28  NAYS 19

Passed by the House April 10, 2007
YEAS 63  NAYS 35

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SUBSTITUTE SENATE BILL 5336 as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN
Secretary

Approved April 21, 2007, 9:56 a.m.

FILED
April 23, 2007

CHRISTINE GREGOIRE
Secretary of State
State of Washington
AN ACT Relating to protecting individuals in domestic partnerships by granting certain rights and benefits; amending RCW 41.05.065, 7.70.065, 70.02.050, 11.07.010, 11.94.080, 68.32.020, 68.32.030, 68.32.040, 68.32.060, 68.32.110, 68.32.130, 68.50.100, 68.50.101, 68.50.105, 68.50.160, 68.50.200, 68.50.550, 11.04.015, 11.28.120, 4.20.020, 4.20.060, and 11.94.010; adding a new section to chapter 43.07 RCW; adding a new section to chapter 41.05 RCW; adding a new section to chapter 70.58 RCW; and adding a new chapter to Title 26 RCW.

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

NEW SECTION. Sec. 1. Many Washingtonians are in intimate, committed, and exclusive relationships with another person to whom they are not legally married. These relationships are important to the individuals involved and their families; they also benefit the public by providing a private source of mutual support for the financial, physical, and emotional health of those individuals and their families. The public has an interest in providing a legal framework for such mutually supportive relationships, whether the partners are of the same or different sexes, and irrespective of their sexual orientation.
The legislature finds that same sex couples, because they cannot marry in this state, do not automatically have the same access that married couples have to certain rights and benefits, such as those associated with hospital visitation, health care decision-making, organ donation decisions, and other issues related to illness, incapacity, and death. Although many of these rights and benefits may be secured by private agreement, doing so often is costly and complex.

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

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

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

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

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

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

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

(b) One or both domestic partners have additional residences not shared with the other domestic partner; or
NEW SECTION. Sec. 3. A new section is added to chapter 43.07 RCW to read as follows:

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

(2)(a) The secretary shall prepare forms entitled "declaration of state registered domestic partnership" and "notice of termination of state registered domestic partnership" to meet the requirements of sections 1, 2, 4, and 8 of this act.

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

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

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

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

NEW SECTION. Sec. 4. To enter into a state registered domestic partnership the two persons involved must meet the following requirements:

(1) Both persons share a common residence;

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

(3) Neither person is married to someone other than the party to the domestic partnership and neither person is in a state registered domestic partnership with another person;
Both persons are capable of consenting to the domestic partnership;

(5) Both of the following are true:
(a) The persons are not nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law; and
(b) Neither person is a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other person; and
(6) Either (a) both persons are members of the same sex; or (b) at least one of the persons is sixty-two years of age or older.

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

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

(3) The secretary shall permanently maintain a record of each declaration of state registered domestic partnership filed with the secretary. The secretary shall provide the state registrar of vital statistics with records of declarations of state registered domestic partnerships.

(4) The secretary shall set by rule and collect a reasonable fee for filing the declaration, calculated to cover the secretary's costs, but not to exceed fifty dollars. Fees collected under this section are expressly designated for deposit in the secretary of state's revolving fund established under RCW 43.07.130.

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

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

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

(3) Upon receipt of a signed, notarized notice of termination, affidavit, if required, and the filing fee, the secretary shall register the notice of termination and provide a certificate of termination of the state registered domestic partnership to each party named on the notice. The secretary shall maintain a record of each notice of termination filed with the secretary and each certificate of termination issued by the secretary. The secretary shall provide the state registrar of vital statistics with records of terminations of state registered domestic partnerships, except for those state registered domestic partnerships terminated under subsection (4) of this section.

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

(5) The secretary shall set by rule and collect a reasonable fee for filing the declaration, calculated to cover the secretary's costs, but not to exceed fifty dollars. Fees collected under this section are expressly designated for deposit in the secretary of state's revolving fund established under RCW 43.07.130.
NEW SECTION.  Sec. 7.  (1)(a) A domestic partnership created by a subdivision of the state is not a state registered domestic partnership for the purposes of a state registered domestic partnership under this chapter. Those persons desiring to become state registered domestic partners under this chapter must register pursuant to section 5 of this act.

(b) A subdivision of the state that provides benefits to the domestic partners of its employees and chooses to use the definition of state registered domestic partner as set forth in section 2 of this act must allow the certificate issued by the secretary of state to satisfy any registration requirements of the subdivision. A subdivision that uses the definition of state registered domestic partner as set forth in section 2 of this act shall notify the secretary of state. The secretary of state shall compile and maintain a list of all subdivisions that have filed such notice. The secretary of state shall post this list on the secretary's web page and provide a copy of the list to each person that receives a certificate of state registered domestic partnership under section 5(2) of this act.

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

(2) Nothing in this act affects any remedy available in common law.

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

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

A certificate of domestic partnership issued to a couple of the same sex under the provisions of section 4 of this act shall be recognized as evidence of a qualified same sex domestic partnership fulfilling all necessary eligibility criteria for the partner of the employee to receive benefits. Nothing in this section affects the requirements of same sex domestic partners to complete documentation related to federal tax status that may currently be required by the board for employees choosing to make premium payments on a pretax basis.
Sec. 10. RCW 41.05.065 and 2006 c 299 s 2 are each amended to read as follows:

(1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state. However, liability insurance shall not be made available to dependents.

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

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

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

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

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

(e) Effective coordination of benefits;

(f) Minimum standards for insuring entities; and

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

(3) The board shall design benefits and determine the terms and conditions of employee and retired employee participation and coverage, including establishment of eligibility criteria subject to the requirements of section 9 of this act. The same terms and conditions of participation and coverage, including eligibility criteria, shall apply to state employees and to school district employees and educational service district employees.

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

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

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

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

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

(9) Before January 1, 1998, the public employees' benefits board
shall make available one or more fully insured long-term care insurance
plans that comply with the requirements of chapter 48.84 RCW. Such
programs shall be made available to eligible employees, retired
employees, and retired school employees as well as eligible dependents
which, for the purpose of this section, includes the parents of the
employee or retiree and the parents of the spouse of the employee or
retiree. Employees of local governments and employees of political
subdivisions not otherwise enrolled in the public employees' benefits
board sponsored medical programs may enroll under terms and conditions
established by the administrator, if it does not jeopardize the
financial viability of the public employees' benefits board's long-term
care offering.

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

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

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

(d) The public employees' benefits board and the health care
authority shall establish a technical advisory committee to provide
advice in the development of the benefit design and establishment of
underwriting guidelines and eligibility rules. The committee shall
also advise the board and authority on effective and cost-effective ways to market and distribute the long-term care product. The technical advisory committee shall be comprised, at a minimum, of representatives of the office of the insurance commissioner, providers of long-term care services, licensed insurance agents with expertise in long-term care insurance, employees, retired employees, retired school employees, and other interested parties determined to be appropriate by the board.

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

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

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

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

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

(1) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)(e), to consent may be obtained from a person authorized to consent on behalf of such patient.
(a) Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent, based upon a reason other than incapacity as defined in RCW 11.88.010(1)(d), shall be a member of one of the following classes of persons in the following order of priority:
   (i) The appointed guardian of the patient, if any;
   (ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;
   (iii) The patient's spouse or state registered domestic partner;
   (iv) Children of the patient who are at least eighteen years of age;
   (v) Parents of the patient; and
   (vi) Adult brothers and sisters of the patient.

(b) If the health care provider seeking informed consent for proposed health care of the patient who is not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:
   (i) If a person of higher priority under this section has refused to give such authorization; or
   (ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(c) Before any person authorized to provide informed consent on behalf of a patient not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.
Informed consent for health care, including mental health care, for a patient who is not competent, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

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

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

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

(iii) Parents of the minor patient;

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

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

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

(c) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient. However, there is no obligation to require such documentation.
(d) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection.

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

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

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

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

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

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

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

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

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

(e) To immediate family members of the patient, including a patient's state registered domestic partner, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

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

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

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

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

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

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

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

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

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

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;
(i) To an official of a penal or other custodial institution in which the patient is detained;

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

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

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

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

(n) For payment.

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

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

(b) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;
(c) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:

(i) The name of the patient;
(ii) The patient's residence;
(iii) The patient's sex;
(iv) The patient's age;
(v) The patient's condition;
(vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;
(vii) Whether the patient was conscious when admitted;
(viii) The name of the health care provider making the determination in (c)(v), (vi), and (vii) of this subsection;
(ix) Whether the patient has been transferred to another facility; and
(x) The patient's discharge time and date;

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

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

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

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

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

(2)(a) If a marriage is dissolved or invalidated, or a state registered domestic partnership terminated, a provision made prior to that event that relates to the payment or transfer at death of the decedent's interest in a nonprobate asset in favor of or granting an interest or power to the decedent's former spouse or state registered domestic partner, is revoked. A provision affected by this section must be interpreted, and the nonprobate asset affected passes, as if the former spouse or former state registered domestic partner, failed to survive the decedent, having died at the time of entry of the decree of dissolution or declaration of invalidity or termination of state registered domestic partnership.

(b) This subsection does not apply if and to the extent that:
   (i) The instrument governing disposition of the nonprobate asset expressly provides otherwise;
   (ii) The decree of dissolution (or declaration of invalidity, or other court order) requires that the decedent maintain a nonprobate asset for the benefit of a former spouse or former state registered domestic partner or children of the marriage, payable on the decedent's death either outright or in trust, and other nonprobate assets of the decedent fulfilling such a requirement for the benefit of the former spouse or former state registered domestic partner or children of the marriage do not exist at the decedent's death;
   (iii) A court order requires that the decedent maintain a nonprobate asset for the benefit of another, payable on the decedent's death either outright or in a trust, and other nonprobate assets of the decedent fulfilling such a requirement do not exist at the decedent's death; or
   (iv) If not for this subsection, the decedent could not have effected the revocation by unilateral action because of the terms of the decree (or declaration, termination of state registered domestic partnership, or for any other reason, immediately after the entry of the decree of dissolution (or declaration of invalidity, or termination of state registered domestic partnership.

(3)(a) A payor or other third party in possession or control of a nonprobate asset at the time of the decedent's death is not liable for
making a payment or transferring an interest in a nonprobate asset to a decedent's former spouse or state registered domestic partner, whose interest in the nonprobate asset is revoked under this section, or for taking another action in reliance on the validity of the instrument governing disposition of the nonprobate asset, before the payor or other third party has actual knowledge of the dissolution or other invalidation of marriage or termination of the state registered domestic partnership. A payor or other third party is liable for a payment or transfer made or other action taken after the payor or other third party has actual knowledge of a revocation under this section.  

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

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

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

(c) Notwithstanding subsections (1) and (2) of this section and (a) and (b) of this subsection, a payor or other third party having actual knowledge of the existence of a dispute between beneficiaries or other persons concerning rights to a nonprobate asset as a result of the
application of this section may condition the payment or transfer of
the nonprobate asset on execution, in a form and with security
acceptable to the payor or other third party, of a bond in an amount
that is double the fair market value of the nonprobate asset at the
time of the decedent's death or the amount of an adverse claim,
whichever is the lesser, or of a similar instrument to provide security
to the payor or other third party, indemnifying the payor or other
third party for any liability, loss, damage, costs, and expenses for
and on account of payment or transfer of the nonprobate asset.

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

(4)(a) A person who purchases a nonprobate asset from a former
spouse, former state registered domestic partner, or other person, for
value and without actual knowledge, or who receives from a former
spouse, former state registered domestic partner, or other person
payment or transfer of a nonprobate asset without actual knowledge and
in partial or full satisfaction of a legally enforceable obligation, is
neither obligated under this section to return the payment, property,
or benefit nor is liable under this section for the amount of the
payment or the value of the nonprobate asset. However, a former
spouse, former state registered domestic partner, or other person who,
with actual knowledge, not for value, or not in satisfaction of a
legally enforceable obligation, receives payment or transfer of a
nonprobate asset to which that person is not entitled under this
section is obligated to return the payment or nonprobate asset, or is
personally liable for the amount of the payment or value of the
nonprobate asset, to the person who is entitled to it under this
section.

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

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

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

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

(c) A trust of which the person is a grantor and that becomes
effective or irrevocable only upon the person's death; or
(d) Transfer on death beneficiary designations of a transfer on death or pay on death security, if such designations are authorized under Washington law.

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

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

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

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

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

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

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

Sec. 16. RCW 68.32.030 and 2005 c 365 s 93 are each amended to
read as follows:
No conveyance or other action of the owner without the written
consent of the spouse or state registered domestic partner, of the
owner divests the spouse or state registered domestic partner, of a
vested right of placement. A final decree of divorce between them or
certification of termination of the state registered domestic
partnership terminates the vested right of placement unless otherwise
provided in the decree.

Sec. 17. RCW 68.32.040 and 2005 c 365 s 94 are each amended to
read as follows:
If no placement is made in a plot or right of interment, which has
been transferred by deed or certificate of ownership to an individual
owner, the title descends to the surviving spouse or state registered
domestic partner. If there is no surviving spouse or state registered
domestic partner, the title descends to the heirs at law of the owner.
Following death of the owner, if all remains previously placed are
lawfully removed and the owner did not dispose of the plot or right of
interment by specific devise or by a written declaration filed and
recorded in the office of the cemetery authority, the title descends to
the surviving spouse or state registered domestic partner. If there is
no surviving spouse or state registered domestic partner, the title
descends to the heirs at law of the owner.

Sec. 18. RCW 68.32.060 and 2005 c 365 s 96 are each amended to
read as follows:
Whenever an interment of the human remains of a member or of a
relative of a member of the family of the record owner or of the
remains of the record owner is made in a plot transferred by deed or
certificate of ownership to an individual owner and both the owner and
the surviving spouse or state registered domestic partner, if any, die
with children then living without making disposition of the plot either
by a specific devise, or by a written declaration filed and recorded in
the office of the cemetery authority, the plot shall thereafter be held
as a family plot and shall be subject to sale only upon agreement of
the children of the owner living at the time of sale.

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

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

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

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

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

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

(2) Every person who shall make, cause, or procure to be made any
dissection of a body, except as provided in this section, is guilty of
a gross misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

(a) The surviving spouse or state registered domestic partner.

(b) The surviving adult children of the decedent.
(c) The surviving parents of the decedent.
(d) The surviving siblings of the decedent.
(e) A person acting as a representative of the decedent under the
signed authorization of the decedent.
(4) If a cemetery authority as defined in RCW 68.04.190 or a
funeral establishment licensed under chapter 18.39 RCW has made a good
faith effort to locate the person cited in subsection (3)(a) through
(e) of this section or the legal representative of the decedent's
estate, the cemetery authority or funeral establishment shall have the
right to rely on an authority to bury or cremate the human remains,
executed by the most responsible party available, and the cemetery
authority or funeral establishment may not be held criminally or
civilly liable for burying or cremating the human remains. In the
event any government agency provides the funds for the disposition of
any human remains and the government agency elects to provide funds for
cremation only, the cemetery authority or funeral establishment may not
be held criminally or civilly liable for cremating the human remains.
(5) The liability for the reasonable cost of preparation, care, and
disposition devolves jointly and severally upon all kin of the decedent
in the same degree of kindred, in the order listed in subsection (3) of
this section, and upon the estate of the decedent.

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

Human remains may be removed from a plot in a cemetery with the
consent of the cemetery authority and the written consent of one of the
following in the order named:
(1) The surviving spouse or state registered domestic partner.
(2) The surviving children of the decedent.
(3) The surviving parents of the decedent.
(4) The surviving brothers or sisters of the decedent.
If the required consent cannot be obtained, permission by the
superior court of the county where the cemetery is situated is
sufficient: PROVIDED, That the permission shall not violate the terms
of a written contract or the rules and regulations of the cemetery
authority.
Sec. 26. RCW 68.50.550 and 1993 c 228 s 4 are each amended to read as follows:

(1) A member of the following classes of persons, in the order of priority listed, absent contrary instructions by the decedent, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent, at the time of death, had made an unrevoked refusal to make that anatomical gift:

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

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

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

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

(e) Either parent of the decedent;

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

(g) A grandparent of the decedent.

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

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

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

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

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

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

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

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

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

(1) Share of surviving spouse or state registered domestic partner.
The surviving spouse or state registered domestic partner shall receive
the following share:
   (a) All of the decedent's share of the net community estate; and
   (b) One-half of the net separate estate if the intestate is
       survived by issue; or
   (c) Three-quarters of the net separate estate if there is no
       surviving issue, but the intestate is survived by one or more of his
       parents, or by one or more of the issue of one or more of his parents;
       or
   (d) All of the net separate estate, if there is no surviving issue
       nor parent nor issue of parent.

(2) Shares of others than surviving spouse or state registered
domestic partner. The share of the net estate not distributable to the
surviving spouse or state registered domestic partner, or the entire
net estate if there is no surviving spouse or state registered domestic
partner, shall descend and be distributed as follows:
   (a) To the issue of the intestate; if they are all in the same
       degree of kinship to the intestate, they shall take equally, or if of
       unequal degree, then those of more remote degree shall take by
       representation.
   (b) If the intestate not be survived by issue, then to the parent
       or parents who survive the intestate.
   (c) If the intestate not be survived by issue or by either parent,
       then to those issue of the parent or parents who survive the intestate;
if they are all in the same degree of kinship to the intestate, they shall take equally, or, if of unequal degree, then those of more remote degree shall take by representation.

(d) If the intestate not be survived by issue or by either parent, or by any issue of the parent or parents who survive the intestate, then to the grandparent or grandparents who survive the intestate; if both maternal and paternal grandparents survive the intestate, the maternal grandparent or grandparents shall take one-half and the paternal grandparent or grandparents shall take one-half.

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

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

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

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

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

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

(4) One or more of the beneficiaries or transferees of the decedent's probate or nonprobate assets.
(a) The director of revenue, or the director's designee, for those estates having property subject to the provisions of chapter 11.08 RCW; however, the director may waive this right.

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

(6) One or more of the principal creditors.

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

Sec. 29. RCW 4.20.020 and 1985 c 139 s 1 are each amended to read as follows:

Every such action shall be for the benefit of the wife, husband, state registered domestic partner, child or children, including stepchildren, of the person whose death shall have been so caused. If there be no spouse, husband, state registered domestic partner, or such child or children, such action may be maintained for the benefit of the parents, sisters, or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his death.

In every such action the jury may give such damages as, under all circumstances of the case, may to them seem just.

Sec. 30. RCW 4.20.060 and 1985 c 139 s 2 are each amended to read as follows:

No action for a personal injury to any person occasioning death shall abate, nor shall such right of action determine, by reason of such death, if such person has a surviving spouse, state registered domestic partner, or child living, including stepchildren, or leaving no surviving spouse, state registered domestic partner, or such children, if there is dependent upon the deceased for support and resident within the United States at the time of decedent's death, parents, sisters, or brothers; but such action may be prosecuted, or
commenced and prosecuted, by the executor or administrator of the deceased, in favor of such surviving spouse or state registered domestic partner, or in favor of the surviving spouse or state registered domestic partner and such children, or if no surviving spouse or state registered domestic partner, in favor of such child or children, or if no surviving spouse, state registered domestic partner, or such child or children, then in favor of the decedent's parents, sisters, or brothers who may be dependent upon such person for support, and resident in the United States at the time of decedent's death.

Sec. 31. RCW 11.94.010 and 2005 c 97 s 12 are each amended to read as follows:

(1) Whenever a principal designates another as his or her attorney in fact or agent, by a power of attorney in writing, and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's disability, the authority of the attorney in fact or agent is exercisable on behalf of the principal as provided notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal or the principal's guardian or heirs, devisees, and personal representative as if the principal were alive, competent, and not disabled. A principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification. If a guardian thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the guardian rather than the principal.
The guardian has the same power the principal would have had if the principal were not disabled or incompetent, to revoke, suspend or terminate all or any part of the power of attorney or agency.

(2) Persons shall place reasonable reliance on any determination of disability or incompetence as provided in the instrument that specifies the time and the circumstances under which the power of attorney document becomes effective.

(3)(a) A principal may authorize his or her attorney-in-fact to provide informed consent for health care decisions on the principal's behalf. If a principal has appointed more than one agent with authority to make mental health treatment decisions in accordance with a directive under chapter 71.32 RCW, to the extent of any conflict, the most recently appointed agent shall be treated as the principal's agent for mental health treatment decisions unless provided otherwise in either appointment.

(b) Unless he or she is the spouse, state registered domestic partner, or adult child or brother or sister of the principal, none of the following persons may act as the attorney-in-fact for the principal: Any of the principal's physicians, the physicians' employees, or the owners, administrators, or employees of the health care facility or long-term care facility as defined in RCW 43.190.020 where the principal resides or receives care. Except when the principal has consented in a mental health advance directive executed under chapter 71.32 RCW to inpatient admission or electroconvulsive therapy, this authorization is subject to the same limitations as those that apply to a guardian under RCW 11.92.043(5) (a) through (c).

(4) A parent or guardian, by a properly executed power of attorney, may authorize an attorney in fact to make health care decisions on behalf of one or more of his or her children, or children for whom he or she is the legal guardian, who are under the age of majority as defined in RCW 26.28.015, to be effective if the child has no other parent or legal representative readily available and authorized to give such consent.

(5) A principal may further nominate a guardian or guardians of the person, or of the estate or both, of a minor child, whether born at the time of making the durable power of attorney or afterwards, to continue during the disability of the principal, during the minority of the
child or for any less time by including such a provision in his or her
power of attorney.

(6) The authority of any guardian of the person of any minor child
shall supersede the authority of a designated attorney in fact to make
health care decisions for the minor only after such designated guardian
has been appointed by the court.

(7) In the event a conflict between the provisions of a will
nominating a testamentary guardian under the authority of RCW 11.88.080
and the nomination of a guardian under the authority of this statute,
the most recent designation shall control.

NEW SECTION. Sec. 32. A new section is added to chapter 70.58 RCW
to read as follows:
Information recorded on death certificates shall include domestic
partnership status and the surviving partner's information to the same
extent such information is recorded for marital status and the
surviving spouse's information.

NEW SECTION. Sec. 33. Sections 1, 2, and 4 through 8 of this act
constitute a new chapter in Title 26 RCW.
Passed by the Senate March 1, 2007.
Passed by the House April 10, 2007.
Approved by the Governor April 21, 2007.
Filed in Office of Secretary of State April 23, 2007.