

# HOUSE BILL REPORT

## E2SSB 5688

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### As Reported by House Committee On:

Judiciary  
Ways & Means

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

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

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Murray, McDermott, Kohl-Welles, Fairley, Hobbs, Ranker, Pridemore, Kauffman, Kline, Keiser, Regala, Fraser, Prentice, Oemig, Franklin, McAuliffe, Jarrett, Brown, Kilmer and Tom).

### Brief History:

#### Committee Activity:

Judiciary: 3/23/09, 3/26/09 [DP];

Ways & Means: 4/4/09 [DP].

#### Brief Summary of Engrossed Second Substitute Bill

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

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 7 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Flannigan, Kelley, Kirby, Ormsby and Roberts.

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

**Staff:** Trudes Tango (786-7384)

### Background:

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

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

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

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

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### **Summary of Bill:**

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

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

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

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except sections 5 through 8 (judicial retirement system), 79 (local improvements and guaranty funds), 87 through 103 (pensions for public employees), 107 (pensions for Washington State Patrol), 151 (Basic Health Plan), 173 through 175 (public assistance), and 190 through 192 (estate tax) of this act, which take effect January 1, 2014, and sections 165 and 166 (Department of Corrections), which take effect August 1, 2009.

**Staff Summary of Public Testimony:**

(In support) Domestic partners have children and live regular, full, and productive lives just like married people; however, equality stops at their doorsteps and their paychecks. Domestic partners suffer inequalities as a result of how medical benefits are taxed and how retirement pensions are handled. The benefits paid to a spouse are paid out of the employee's pre-tax income; for domestic partners, medical benefits for their partners are paid out of post-tax income. Domestic partners do not receive equal benefits for equal pay. The Legislature must consider the humanity of every person, including gay and lesbian people. This bill would provide the same rights available to married people to domestic partners without requiring mounds of paper work and legal fees. Domestic partners must take into consideration so many things that married couples take for granted, such as survivorship rights in pensions. Every person has a right to live, work, learn, and feel safe without discrimination. It demeans all children when society says that one family has less value than another family.

(Opposed) If the state extends marriage-like benefits to people who are not married, it needs to consider extending those same rights to other loving relationships. This bill will infringe on people's religious freedom. Businesses across the country where similar laws have been enacted have been civilly fined or sued for refusing to provide services to homosexuals. This bill creates a direct conflict for churches and businesses, which will be forced to either follow their moral and religious convictions or obey the law. The Legislature needs to respect all of the citizens and not just the vocal few. Marriage between a man and a woman should remain unchanged. This bill will cause social upheaval. It will cause strife and conflict. It will cause a bottleneck in the courts with lawsuits. Respecting the rights of everyone does not mean the Legislature needs to change what marriage has historically meant. By changing the definition of marriage, the Legislature will be making an important and huge shift in our society. Marriage has provided the foundation for healthy and harmonious living. Cultures that have condoned intimate human relations not based on marriage have ended in decay. How society respects marriage is linked to how well marriage will survive. The bill will eventually affect the institution of marriage in a negative way. This bill will cost money and this is not the time for the state to be spending money. Research has shown that children raised by a mother and father are less likely to become delinquents. Washington citizens expect the Defense of Marriage Act to be upheld. This bill treads on everyone who is married.

**Persons Testifying:** (In support) Genesee Adkins, City of Seattle; Rachel Smith-Mosel and Brandon Smith; Gilbert and Beth Rossing; Penny Stone; Karen Kerr; and Adam Brockus.

(Opposed) Joseph Backholm, Family Policy Institute; Larry Stickney, Washington Values Alliance; Kim Sheley, Washington State Catholic Conference; Valerie Hartwell, Rivers of Glory; Mike Keith; Susan Bradrick; Sandy Bryan; Diane Eaton; Rebecca Carpenter; Larry Kvamme; Jeremy Schuler; Charles Beck; Renaldo Fischer; Heidi Lestelle; Laura Belvin; and Bryant Adams.

**Persons Signed In To Testify But Not Testifying:** (Opposed) Valerie Hartwell, Rivers of Glory; and Brenda Keith.

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## HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass. Signed by 13 members: Representatives Linville, Chair; Ericks, Vice Chair; Cody, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Seaquist and Sullivan.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Priest, Ross and Schmick.

**Staff:** David Pringle (786-7310)

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

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except sections 5 through 8 (judicial retirement system), 79 (local improvements and guaranty funds), 87 through 103 (pensions for public employees), 107 (pensions for Washington State Patrol), 151 (Basic Health Plan), 173 through 175 (public assistance), and 190 through 192 (estate tax) of this act, which take effect January 1, 2014, and sections 165 and 166 (Department of Corrections), which take effect August 1, 2009.

### **Staff Summary of Public Testimony:**

(In support) None.

(Opposed) The sponsors of Engrossed Second Substitute Bill 5688 have made it clear that this not only serves the needs of same-sex couples, but serves as a pathway to the legalization of same-sex marriage. That said, the public debate about extended benefits should not be confused with same-sex marriage, and must not lead to the destruction of institution of marriage. The Catholic Church's support for the legal definition of marriage as the union between a man and a woman is rooted in our belief that the state has a duty to support the common good, and that the genuine differences in how women and men are created are

complimentary and provide essential components in the raising and teaching of children. We honor the dignity of all persons and opposing unjust discrimination always and anywhere, we call upon the Legislature to uphold marriage as a union between a man and a woman. The future of civil society is at stake.

**Persons Testifying:** Kim Sheley, Washington State Catholic Conference.

**Persons Signed In To Testify But Not Testifying:** None.