
Judiciary Committee

ESSB 6239

Title: An act relating to providing equal protection for all families in Washington by creating equality in civil marriage and changing the domestic partnership laws, while protecting religious freedom.

Brief Description: Concerning civil marriage and domestic partnerships.

Sponsors: Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Murray, Pflug, Hobbs, Litzow, Kohl-Welles, Ranker, Tom, Harper, Pridemore, Keiser, Kline, Regala, Eide, Rolfes, McAuliffe, Brown, Nelson, Chase, Fraser, Frockt, Conway, Kilmer and Prentice; by request of Governor Gregoire).

Brief Summary of Engrossed Substitute Bill

- Allows couples of the same sex to marry.
- Provides an exemption and immunity for religious organizations, religiously affiliated educational institutions, and ministers, priests, imams, rabbis, and similar officials of religious organizations.
- Provides that a state registered domestic partnership in which the parties are the same sex and under the age of 62 will be merged into a marriage as of June 30, 2014, unless the parties marry or dissolve their domestic partnership before that date.

Hearing Date: 2/6/12

Staff: Trudes Tango (786-7384).

Background:

Marriage.

Marriage is a civil contract between a male and a female who have each attained the age of 18 years and who are otherwise capable. A marriage between persons other than a male and a female is prohibited. Judges, court commissioners, and any regularly licensed or ordained minister or any priest of any church or religious denomination may solemnize marriages.

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.

State Registered Domestic Partnerships.

To enter into a state registered domestic partnership the two persons must either be members of the same sex or at least one of the persons is 62 years old or older. For all purposes under state law, registered domestic partners must be treated the same as married persons. Terms such as spouse, marriage, husband, and wife must be interpreted to apply equally to registered domestic partners as to married persons, to the extent the interpretation does not conflict with federal law. The Office of the Secretary of State administers the domestic partnership registry.

Summary of Bill:

Marriage.

Marriage is a civil contract between two persons. The prohibition against marriage when the parties are persons other than a male and a female is removed. The list of persons authorized to solemnize a marriage is amended to specify imams, rabbis, and other similar officials of any religious organization.

Exemptions for Religious Organizations.

No religious organization is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage. No state agency or local government may base a decision to penalize, withhold benefits from, license, or refuse to contract with a religious organization based on the opposition to or refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

No religiously affiliated educational institution shall be required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage, including a use of any campus chapel or church.

Religious organizations and religiously affiliated educational institutions shall be immune from a civil claim or cause of action, including claims under the law against discrimination, based on its refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

No regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of a religious organization is required to solemnize or recognize any marriage. A regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization is immune from any civil claim or cause of action based on his or her refusal to solemnize or recognize any marriage. A state agency or local government may not base a decision to penalize, withhold benefits from, or refuse to contract with any religious organization on the refusal of a person associated with that religious organization to solemnize or recognize a marriage.

"Recognize" means to provide religious-based services that: (a) are delivered by a religious organization, or by an individual who is managed, supervised, or directed by a religious organization; and (b) are designed for married couples or couples engaged to be married and are directly related to solemnizing, celebrating, strengthening, or promoting a marriage, such as religious counseling programs, courses, retreats, and workshops.

"Religious organization" includes, but is not limited to, churches, synagogues, mosques, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion. "Religious organization" must be interpreted liberally to include faith-based social service organizations involved in social services directed at the larger community.

Child-placing Services.

Nothing in the legislation shall be construed to alter or affect existing law regarding the manner in which a religious or nonprofit organization may be licensed to and provide adoption, foster care, or other child-placing services under the adoption and foster care statutes.

State Registered Domestic Partnerships.

To enter into a state registered domestic partnership at least one of the persons must be 62 years of age or older. Thus, a couple of the same sex may not enter into a registered domestic partnership unless at least one of the persons is 62 years old or older.

State registered domestic partners may apply and receive marriage licenses as long as the parties are otherwise eligible to marry and the parties to the marriage are the same as the parties to the domestic partnership. Marriage of the parties dissolves the domestic partnership.

Any state registered domestic partnership in which the parties are the same sex and neither party is 62 years old or older will be automatically merged into a marriage as of June 30, 2014, if the parties have not already married or entered into dissolution as of that date.

Reciprocity.

If two persons in Washington have a legal union, other than a marriage, that was validly formed in another jurisdiction, that provides substantially the same rights and responsibilities as a marriage, and that does not meet the definition of a state registered domestic partnership in Washington, then that legal union will be treated as having the same rights and responsibilities as married spouses in Washington. However, this reciprocity does not apply if the relationship would otherwise be prohibited under Washington's marriage statutes or if the two persons become permanent residents of Washington and do not marry within one year of becoming permanent residents. A legal union, other than a marriage, of two persons validly formed in another jurisdiction that is substantially equivalent to a state registered domestic partnership in Washington will be recognized in Washington as a registered domestic partnership.

Notice.

The Secretary of State must send two notices to same sex registered domestic partners notifying them of the changes in the law, one within 60 days after the legislation's effective date and the second by May 1, 2014. The notice must clearly state that laws governing same sex registered domestic partners will change and that same sex registered domestic partnerships that are not dissolved prior to June 30, 2014, will be converted to marriage.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 8 and 9, relating to eligibility of persons to enter into registered domestic partnerships, which take effect June 30, 2014, but only if all other provisions of the act are implemented.