

---

HOUSE BILL 2049

---

State of Washington

56th Legislature

1999 Regular Session

By Representatives Benson, Ericksen, D. Sommers, Cox, Lambert, Koster, Boldt and Schindler

Read first time 02/15/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to the preservation of marriage; amending RCW  
2 26.04.080, 26.04.090, 26.04.160, and 26.09.030; reenacting and amending  
3 RCW 26.09.150; adding a new section to chapter 26.04 RCW; and creating  
4 a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that dissolution of  
7 marriage contributes to children living in poverty. Studies have shown  
8 that one parent families have lower income levels when compared to two  
9 parent families. After dissolution, poverty has a significant  
10 influence on a child's welfare including his or her opportunities.  
11 Therefore, it is a reasonable function of the legislature to help  
12 children in poverty by allowing men and women to enter agreements that  
13 increase their commitment to one another.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.04 RCW  
15 to read as follows:

16 (1) A marriage preservation contract is a contract entered into by  
17 one man and one woman or married couples who understand and agree that  
18 the marriage between them is for life. The parties contract to make

1 the grounds, terms, and conditions for dissolution of their marriage  
2 more restrictive than alleging that their marriage is irretrievably  
3 broken. The parties contract to make restrictive grounds, terms, and  
4 conditions for legal separation. The parties agree to take all  
5 reasonable efforts to preserve their marriage. Only when there has  
6 been a complete and total breach of the marital commitment may the  
7 parties seek a declaration that the marriage is no longer legally  
8 recognized.

9 (2) A man and a woman or married couples may enter into a written  
10 marriage preservation contract.

11 (a) Both parties must sign the contract and the contract must be  
12 notarized.

13 (b) If one or both parties are minors, the written consent or  
14 authorization of a superior court judge is required as in RCW  
15 26.04.010.

16 (3) Either a husband or a wife may file a petition for dissolution  
17 of marriage or a petition for legal separation.

18 (4) For good cause, the court may enter temporary orders at any  
19 time after a petition for dissolution or a petition for legal  
20 separation has been filed.

21 **Sec. 3.** RCW 26.04.080 and Code 1881 s 2384 are each amended to  
22 read as follows:

23 The person solemnizing a marriage shall give to each of the parties  
24 (~~thereto~~), if required, a certificate (~~thereof~~), specifying  
25 (~~therein~~) the names and residence of the parties, and of at least two  
26 witnesses present, the time and place of such marriage, and the date of  
27 the license (~~thereof~~), and by whom issued. If applicable, the person  
28 solemnizing the marriage shall include a designation on the face of the  
29 certificate that the parties entered into a marriage preservation  
30 contract.

31 **Sec. 4.** RCW 26.04.090 and 1967 c 26 s 4 are each amended to read  
32 as follows:

33 A person solemnizing a marriage shall, within thirty days  
34 thereafter, make and deliver to the county auditor of the county  
35 wherein the license was issued a certificate for the files of the  
36 county auditor, and a certificate for the files of the state registrar

1 of vital statistics. The certificate for the files of the county  
2 auditor shall be substantially as follows:

3 STATE OF WASHINGTON }  
4 }  
5 COUNTY OF . . . . . }

6 This is to certify that the undersigned, a . . . . ., by  
7 authority of a license bearing date the . . . . day of . . . . .  
8 A.D., 19. . ., and issued by the County auditor of the county of  
9 . . . . ., did, on the . . . . day of . . . . . A.D., 19. . ., at  
10 . . . . . in this county and state, join in lawful wedlock A.B. of  
11 the county of . . . . ., state of . . . . . and C.D. of the county  
12 of . . . . ., state of . . . . ., with their mutual assent, in the  
13 presence of F H and E G, witnesses.

14 In Testimony Whereof, witness the signatures of the parties to said  
15 ceremony, the witnesses and myself, this . . . . day of . . . . .,  
16 A.D., 19. . .

17 (~~The certificate for the files of the state registrar of vital~~  
18 ~~statistics shall be in accordance with RCW 70.58.200-.)~~ If applicable,  
19 the person solemnizing the marriage shall include a designation on the  
20 face of the certificate that the parties entered into a marriage  
21 preservation contract. The certificate forms for the files of the  
22 county auditor and for the files of the state registrar of vital  
23 statistics shall be provided by the state registrar of vital  
24 statistics.

25 **Sec. 5.** RCW 26.04.160 and 1997 c 58 s 909 are each amended to read  
26 as follows:

27 (1) Application for a marriage license must be made and filed with  
28 the appropriate county auditor upon blanks to be provided by the county  
29 auditor for that purpose, which application shall be under the oath of  
30 each of the applicants, and each application shall state the name,  
31 address at the time of execution of application, age, social security  
32 number, birthplace, whether single, widowed or divorced, and whether  
33 under control of a guardian, residence during the past six months:  
34 PROVIDED, That each county may require such other and further  
35 information on said application as it shall deem necessary. In cases  
36 where the parties intend to enter into a preservation of marriage

1 contract, they must declare their intent to do so on their application  
2 for a marriage license.

3 (2) The county legislative authority may impose an additional fee  
4 up to fifteen dollars on a marriage license for the purpose of funding  
5 family services such as family support centers.

6 **Sec. 6.** RCW 26.09.030 and 1996 c 23 s 1 are each amended to read  
7 as follows:

8 Except in the case of a marriage preservation contract, when a  
9 party who (~~(1)~~) is a resident of this state, (~~(or (2) is)~~) a member  
10 of the armed forces and is stationed in this state, or (~~(3) is)~~)  
11 married to a party who is a resident of this state or who is a member  
12 of the armed forces and is stationed in this state, petitions for a  
13 dissolution of marriage, and alleges that the marriage is irretrievably  
14 broken and when ninety days have elapsed since the petition was filed  
15 and from the date when service of summons was made upon the respondent  
16 or the first publication of summons was made, the court shall proceed  
17 as follows:

18 (1) If the other party joins in the petition or does not deny that  
19 the marriage is irretrievably broken, the court shall enter a decree of  
20 dissolution.

21 (2) If the other party alleges that the petitioner was induced to  
22 file the petition by fraud, or coercion, the court shall make a finding  
23 as to that allegation and, if it so finds shall dismiss the petition.

24 (3) If the other party denies that the marriage is irretrievably  
25 broken the court shall consider all relevant factors, including the  
26 circumstances that gave rise to the filing of the petition and the  
27 prospects for reconciliation and shall:

28 (a) Make a finding that the marriage is irretrievably broken and  
29 enter a decree of dissolution of the marriage; or

30 (b) At the request of either party or on its own motion, transfer  
31 the cause to the family court, refer them to another counseling service  
32 of their choice, and request a report back from the counseling service  
33 within sixty days, or continue the matter for not more than sixty days  
34 for hearing. If the cause is returned from the family court or at the  
35 adjourned hearing, the court shall:

36 (i) Find that the parties have agreed to reconciliation and dismiss  
37 the petition; or

1 (ii) Find that the parties have not been reconciled, and that  
2 either party continues to allege that the marriage is irretrievably  
3 broken. When such facts are found, the court shall enter a decree of  
4 dissolution of the marriage.

5 (4) If the petitioner requests the court to decree legal separation  
6 in lieu of dissolution, the court shall enter the decree in that form  
7 unless the other party objects and petitions for a decree of  
8 dissolution or declaration of invalidity.

9 **Sec. 7.** RCW 26.09.150 and 1989 1st ex.s. c 9 s 205 and 1989 c 375  
10 s 30 are each reenacted and amended to read as follows:

11 A decree of dissolution of marriage, legal separation, or  
12 declaration of invalidity is final when entered, subject to the right  
13 of appeal. An appeal which does not challenge the finding that the  
14 marriage is irretrievably broken ~~((or)),~~ the marriage was invalid, or  
15 the grounds, terms, or conditions agreed to in the marriage  
16 preservation contract where breached does not delay the finality of the  
17 dissolution or declaration of invalidity and either party may remarry  
18 pending such an appeal.

19 No earlier than six months after entry of a decree of legal  
20 separation, on motion of either party, the court shall convert the  
21 decree of legal separation to a decree of dissolution of marriage.  
22 ~~((The clerk of court shall complete the certificate as provided for in~~  
23 ~~RCW 70.58.200 on the form provided by the department of health.))~~ On  
24 or before the tenth day of each month, the clerk of the court shall  
25 forward to the state registrar of vital statistics the certificate of  
26 each decree of divorce, dissolution of marriage, annulment, or separate  
27 maintenance granted during the preceding month.

28 Upon request of a party whose marriage is dissolved or declared  
29 invalid, the court shall order a former name restored or the court may,  
30 in its discretion, order a change to another name.

--- END ---