
HOUSE JOINT MEMORIAL 4045

State of Washington 58th Legislature 2004 Regular Session

By Representatives Boldt, McMorris, McMahan, Bush and Talcott

Read first time 02/06/2004. Referred to Committee on Juvenile Justice & Family Law.

1 TO THE HONORABLE CHIEF JUSTICE OF THE SUPREME COURT OF THE STATE OF
2 WASHINGTON, GERRY ALEXANDER, AND THE HONORABLE ASSOCIATE JUSTICES OF
3 THE SUPREME COURT OF THE STATE OF WASHINGTON, BOBBE BRIDGE, TOM
4 CHAMBERS, MARY FAIRHURST, FAITH IRELAND, CHARLES JOHNSON, BARBARA
5 MADSEN, SUSAN OWENS, AND RICHARD SANDERS:

6 We, your Memorialists, the Senate and House of Representatives of
7 the State of Washington, in legislative session assembled, respectfully
8 represent and petition as follows:

9 WHEREAS, The legislature has expressed its intent that it is a
10 compelling interest of the state of Washington to reaffirm its
11 historical commitment to the institution of marriage as a union between
12 a man and a woman as husband and wife and to protect that institution;
13 and

14 WHEREAS, The legislature and the people of the state of Washington
15 have found that matters pertaining to marriage are matters reserved to
16 the sovereign states and, therefore, such matters should be determined
17 by the people within each individual state and not by the people or
18 courts of a different state; and

19 WHEREAS, Washington state law provides that marriage is a civil
20 contract between a male and a female; and

1 WHEREAS, Washington state law provides that marriages are
2 prohibited when the parties are persons other than a male and a female;
3 and

4 WHEREAS, Washington state law provides that a marriage between two
5 persons that is recognized as valid in another jurisdiction is valid in
6 this state only if the marriage is not prohibited or made unlawful
7 under Washington statutes; and

8 WHEREAS, The court in *Singer v. Hara*, 11 Wn. App. 247 (1974), in a
9 well-reasoned opinion, held that the Washington state marriage statute
10 does not allow marriage between persons of the same sex; and

11 WHEREAS, In P.L. 104-199; 110 Stat. 219, the Defense of Marriage
12 Act, Congress defines marriage for purposes of federal law as a legal
13 union between one man and one woman as husband and wife and provides
14 that a state shall not be required to give effect to any public act or
15 judicial proceeding of any other state respecting marriage between
16 persons of the same sex if the state has determined that it will not
17 recognize same-sex marriages; and

18 WHEREAS, The legislature has expressed its intent to codify the
19 *Singer* opinion and to fully exercise the authority granted the
20 individual states by Congress in P.L. 104-199; 110 Stat. 219, the
21 Defense of Marriage Act, to establish public policy against same-sex
22 marriage in statutory law that clearly and definitively declares same-
23 sex marriages will not be recognized in Washington, even if they are
24 made legal in other states; and

25 WHEREAS, Federal and state case law is well-established that states
26 can make exceptions to the full faith and credit requirement where out-
27 of-state marriages violate a strong public policy within the state and
28 the legislature has clearly enacted an exception to the blanket
29 recognition; and

30 WHEREAS, In 1998, the Washington state legislature enacted House
31 Bill No. 1130 over the veto of the governor which act specifically
32 limits marriage in Washington state to a man and a woman and provides
33 that no marriage from another jurisdiction will be honored in
34 Washington state if it is not between a man and a woman, thus
35 Washington law clearly expresses a strong public policy against same-
36 sex marriages; and

37 WHEREAS, This doctrine of *stare decisis* requires the court to abide
38 by decided cases, and federal and state case law on the prerogative of

1 each of the individual states to determine its own particular policies
2 on marriage law and what constitutes a valid marital status has been
3 well-settled by decision and has formed precedent which should not be
4 departed from unless clearly and conclusively in contradiction to
5 higher law;

6 NOW, THEREFORE, Your Memorialists respectfully pray that the court
7 uphold the rule of law and the separation of powers, adhere to a long
8 line of federal and state case law regarding the rights of each state
9 to determine what legally constitutes marital status within that state,
10 comply with traditional full faith and credit doctrines as they apply
11 to the marriage laws of the individual states, confirm the strong
12 public policy adopted by the Washington state legislature by statute
13 specifically and expressly limiting marriage in Washington state to a
14 man and a woman and providing that no marriage from another
15 jurisdiction will be recognized in Washington state if it is not
16 between a man and a woman, and reject any challenge thereto advocating
17 the recognition of same-sex marriages.

18 BE IT RESOLVED, That copies of this Memorial be immediately
19 transmitted to the Honorable Chief Justice of the Supreme Court of the
20 state of Washington, Gerry Alexander, and the Honorable Associate
21 Justices of the Supreme Court of the state of Washington, Bobbe Bridge,
22 Tom Chambers, Mary Fairhurst, Faith Ireland, Charles Johnson, Barbara
23 Madsen, Susan Owens, and Richard Sanders.

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