

SSB 5336 - H AMD 652

By Representative Miloscia

FAILED 04/10/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The purpose of this chapter is to
4 extend certain rights and obligations to two adults who provide mutual
5 care and support for each other, but are legally prohibited from
6 marrying each other under RCW 26.04.020.

7 (2) The legislature finds that the people of Washington have chosen
8 to limit marriage to the union of one man and one woman. As such,
9 marriage is subject to restrictions, such as the prohibitions under RCW
10 26.04.020 between parties who are first cousins or nearer of kin to
11 each other or who are of the same sex.

12 (3) The legislature recognizes that many choose to live in
13 relationships that include financial interdependence and other mutual
14 care and support. The state has an interest in promoting these
15 relationships to encourage private dependencies rather than reliance on
16 state benefits. The legislature recognizes that these mutually
17 beneficial relationships would be assisted if certain rights, benefits,
18 and obligations were made available to them. Examples include two
19 individuals who are related to each other such as a widowed mother and
20 her unmarried daughter, a grandmother caring for her grandson, or
21 unrelated adults of the same gender.

22 (4) The legislature finds that certain rights, benefits, and
23 obligations should be extended to two adults who seek to mutually care
24 for each other.

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

27 (1) "Domestic partners" means two adults who meet the requirements
28 of section 3 of this act.

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

1 NEW SECTION. **Sec. 3.** Two adults are considered domestic partners
2 when the following requirements are met:

3 (1) Both are at least eighteen years of age;

4 (2) Neither is married to another person or in a domestic
5 partnership with another person;

6 (3) Both are capable of consenting to the partnership without fraud
7 or duress;

8 (4) They share a common residence;

9 (5) They are legally prohibited from marrying each other under RCW
10 26.04.020;

11 (6) They execute a mutual beneficiary contract provided by the
12 secretary; and

13 (7) They file the mutual beneficiary contract with the secretary.

14 NEW SECTION. **Sec. 4.** (1) Two adults who meet the criteria in
15 section 3(1) through (5) of this act may enter into a mutual
16 beneficiary contract and file a "declaration of domestic partners in a
17 mutual beneficiary contract" with the secretary. Upon receipt of a
18 signed, notarized declaration and the filing fee, the secretary shall
19 provide a copy of the declaration to both parties. The secretary shall
20 maintain a record of each declaration filed with the secretary.

21 (2) An adult who is a domestic partner in a mutual beneficiary
22 contract filed with the secretary, may terminate the domestic
23 partnership by filing a signed, notarized "termination of domestic
24 partnership" with the secretary and pay a filing fee. The party
25 seeking to terminate the partnership must include in his or her filing
26 an affidavit stating that the other party has received notice of the
27 termination.

28 (3) Upon receipt of a signed, notarized termination of domestic
29 partnership, filing fee, and affidavit, the secretary shall provide a
30 copy of the termination of domestic partnership to each of the parties
31 to the domestic partnership. The secretary shall maintain a record of
32 each termination of domestic partnership filed with the secretary.

33 (4) The secretary shall create forms entitled "declaration of
34 domestic partners in a mutual beneficiary contract" and "termination of
35 domestic partnership" and shall make those forms available to the
36 public. The secretary shall set and collect a fee, not to exceed
37 fifty dollars, for filing a declaration of domestic partnership and a

1 fee, not to exceed fifty dollars, for filing a termination of domestic
2 partnership. The secretary is authorized to adopt rules to administer
3 this chapter.

4 NEW SECTION. **Sec. 5.** Domestic partners shall have the rights and
5 benefits provided under this act. Nothing in this act may be construed
6 to create any rights, benefits, protections, or responsibilities not
7 specifically enumerated in this act.

8 NEW SECTION. **Sec. 6.** (1) A domestic partnership created by a
9 subdivision of the state is not a domestic partnership for the purposes
10 of this chapter. Those persons desiring to become state registered
11 domestic partners under this chapter must register pursuant to section
12 5 of this act. Nothing in this act shall affect domestic partnerships
13 created by any public entity.

14 (2) A domestic partnership, civil union, or other relationship
15 recognized by another state or jurisdiction that confers some or all of
16 the benefits, rights, or obligations of marriage to persons who would
17 not be eligible to marry in the state of Washington shall be deemed to
18 have executed a declaration of domestic partners in a mutual
19 beneficiary contract under this chapter, provided they would qualify
20 for a mutual beneficiary contract under section 3 of this act.

21 NEW SECTION. **Sec. 7.** A patient's domestic partner shall have the
22 same rights as a spouse with respect to visitation of the patient in a
23 health care facility as defined in RCW 48.43.005.

24 NEW SECTION. **Sec. 8.** A new section is added to chapter 41.05 RCW
25 to read as follows:

26 A declaration of domestic partnership issued to a couple of the
27 same sex under the provisions of section 4 of this act shall be
28 recognized as evidence of a qualified same sex domestic partnership
29 fulfilling all necessary eligibility criteria for the partner of the
30 employee to receive benefits. Nothing in this section affects the
31 requirements of same sex domestic partners to complete documentation
32 related to federal tax status that may currently be required by the
33 board for employees choosing to make premium payments on a pretax
34 basis.

1 **Sec. 9.** RCW 41.05.065 and 2006 c 299 s 2 are each amended to read
2 as follows:

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

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

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

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

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

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

29 (e) Effective coordination of benefits;

30 (f) Minimum standards for insuring entities; and

31 (g) Minimum scope and content of public employee benefit plans to
32 be offered to enrollees participating in the employee health benefit
33 plans. To maintain the comprehensive nature of employee health care
34 benefits, employee eligibility criteria related to the number of hours
35 worked and the benefits provided to employees shall be substantially
36 equivalent to the state employees' health benefits plan and eligibility
37 criteria in effect on January 1, 1993. Nothing in this subsection
38 (2)(g) shall prohibit changes or increases in employee point-of-service

1 payments or employee premium payments for benefits or the
2 administration of a high deductible health plan in conjunction with a
3 health savings account.

4 (3) The board shall design benefits and determine the terms and
5 conditions of employee and retired employee participation and coverage,
6 including establishment of eligibility criteria subject to the
7 requirements of section 8 of this act. The same terms and conditions
8 of participation and coverage, including eligibility criteria, shall
9 apply to state employees and to school district employees and
10 educational service district employees.

11 (4) The board may authorize premium contributions for an employee
12 and the employee's dependents in a manner that encourages the use of
13 cost-efficient managed health care systems. During the 2005-2007
14 fiscal biennium, the board may only authorize premium contributions for
15 an employee and the employee's dependents that are the same, regardless
16 of an employee's status as represented or nonrepresented by a
17 collective bargaining unit under the personnel system reform act of
18 2002. The board shall require participating school district and
19 educational service district employees to pay at least the same
20 employee premiums by plan and family size as state employees pay.

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

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

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

33 (8) The board shall review plans proposed by insuring entities that
34 desire to offer property insurance and/or accident and casualty
35 insurance to state employees through payroll deduction. The board may
36 approve any such plan for payroll deduction by insuring entities
37 holding a valid certificate of authority in the state of Washington and

1 which the board determines to be in the best interests of employees and
2 the state. The board shall promulgate rules setting forth criteria by
3 which it shall evaluate the plans.

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

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

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

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

35 (d) The public employees' benefits board and the health care
36 authority shall establish a technical advisory committee to provide
37 advice in the development of the benefit design and establishment of
38 underwriting guidelines and eligibility rules. The committee shall

1 also advise the board and authority on effective and cost-effective
2 ways to market and distribute the long-term care product. The
3 technical advisory committee shall be comprised, at a minimum, of
4 representatives of the office of the insurance commissioner, providers
5 of long-term care services, licensed insurance agents with expertise in
6 long-term care insurance, employees, retired employees, retired school
7 employees, and other interested parties determined to be appropriate by
8 the board.

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

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

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

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

32 **Sec. 10.** RCW 7.70.065 and 2006 c 93 s 1 are each amended to read
33 as follows:

34 (1) Informed consent for health care for a patient who is not
35 competent, as defined in RCW 11.88.010(1)(e), to consent may be
36 obtained from a person authorized to consent on behalf of such patient.

1 (a) Persons authorized to provide informed consent to health care
2 on behalf of a patient who is not competent to consent, based upon a
3 reason other than incapacity as defined in RCW 11.88.010(1)(d), shall
4 be a member of one of the following classes of persons in the following
5 order of priority:

6 (i) The appointed guardian of the patient, if any;

7 (ii) The individual, if any, to whom the patient has given a
8 durable power of attorney that encompasses the authority to make health
9 care decisions;

10 (iii) The patient's spouse or domestic partner as defined under
11 section 2 of this act;

12 (iv) Children of the patient who are at least eighteen years of
13 age;

14 (v) Parents of the patient; and

15 (vi) Adult brothers and sisters of the patient.

16 (b) If the health care provider seeking informed consent for
17 proposed health care of the patient who is not competent to consent
18 under RCW 11.88.010(1)(e), other than a person determined to be
19 incapacitated because he or she is under the age of majority and who is
20 not otherwise authorized to provide informed consent, makes reasonable
21 efforts to locate and secure authorization from a competent person in
22 the first or succeeding class and finds no such person available,
23 authorization may be given by any person in the next class in the order
24 of descending priority. However, no person under this section may
25 provide informed consent to health care:

26 (i) If a person of higher priority under this section has refused
27 to give such authorization; or

28 (ii) If there are two or more individuals in the same class and the
29 decision is not unanimous among all available members of that class.

30 (c) Before any person authorized to provide informed consent on
31 behalf of a patient not competent to consent under RCW 11.88.010(1)(e),
32 other than a person determined to be incapacitated because he or she is
33 under the age of majority and who is not otherwise authorized to
34 provide informed consent, exercises that authority, the person must
35 first determine in good faith that that patient, if competent, would
36 consent to the proposed health care. If such a determination cannot be
37 made, the decision to consent to the proposed health care may be made

1 only after determining that the proposed health care is in the
2 patient's best interests.

3 (2) Informed consent for health care, including mental health care,
4 for a patient who is not competent, as defined in RCW 11.88.010(1)(e),
5 because he or she is under the age of majority and who is not otherwise
6 authorized to provide informed consent, may be obtained from a person
7 authorized to consent on behalf of such a patient.

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

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

16 (ii) A person authorized by the court to consent to medical care
17 for a child in out-of-home placement pursuant to chapter 13.32A or
18 13.34 RCW, if any;

19 (iii) Parents of the minor patient;

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

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

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

36 (c) A health care facility or a health care provider may, in its
37 discretion, require documentation of a person's claimed status as being

1 a relative responsible for the health care of the minor patient.
2 However, there is no obligation to require such documentation.

3 (d) The health care provider or health care facility where services
4 are rendered shall be immune from suit in any action, civil or
5 criminal, or from professional or other disciplinary action when such
6 reliance is based on a declaration signed under penalty of perjury
7 pursuant to RCW 9A.72.085 stating that the adult person is a relative
8 responsible for the health care of the minor patient under (a)(v) of
9 this subsection.

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

13 **Sec. 11.** RCW 70.02.050 and 2006 c 235 s 3 are each amended to read
14 as follows:

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

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

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

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

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

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

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

6 (e) To immediate family members of the patient, including a
7 patient's domestic partner, as defined under section 2 of this act, or
8 any other individual with whom the patient is known to have a close
9 personal relationship, if made in accordance with good medical or other
10 professional practice, unless the patient has instructed the health
11 care provider or health care facility in writing not to make the
12 disclosure;

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

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

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

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

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

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

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

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

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

37 (ii) Not to disclose the information further, except to accomplish

1 the audit or report unlawful or improper conduct involving fraud in
2 payment for health care by a health care provider or patient, or other
3 unlawful conduct by the health care provider;

4 (i) To an official of a penal or other custodial institution in
5 which the patient is detained;

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

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

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

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

30 (n) For payment.

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

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

1 (b) To federal, state, or local law enforcement authorities to the
2 extent the health care provider is required by law;

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

14 (i) The name of the patient;

15 (ii) The patient's residence;

16 (iii) The patient's sex;

17 (iv) The patient's age;

18 (v) The patient's condition;

19 (vi) The patient's diagnosis, or extent and location of injuries as
20 determined by a health care provider;

21 (vii) Whether the patient was conscious when admitted;

22 (viii) The name of the health care provider making the
23 determination in (c)(v), (vi), and (vii) of this subsection;

24 (ix) Whether the patient has been transferred to another facility;
25 and

26 (x) The patient's discharge time and date;

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

29 (e) Pursuant to compulsory process in accordance with RCW
30 70.02.060.

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

35 **Sec. 12.** RCW 11.07.010 and 2002 c 18 s 1 are each amended to read
36 as follows:

37 (1) This section applies to all nonprobate assets, wherever

1 situated, held at the time of entry by a superior court of this state
2 of a decree of dissolution of marriage or a declaration of invalidity
3 or termination of a domestic partnership.

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

14 (b) This subsection does not apply if and to the extent that:

15 (i) The instrument governing disposition of the nonprobate asset
16 expressly provides otherwise;

17 (ii) The decree of dissolution (~~(or)~~), declaration of invalidity,
18 or other court order requires that the decedent maintain a nonprobate
19 asset for the benefit of a former spouse or former domestic partner or
20 children of the marriage or children of the domestic partnership,
21 payable on the decedent's death either outright or in trust, and other
22 nonprobate assets of the decedent fulfilling such a requirement for the
23 benefit of the former spouse or former domestic partner or children of
24 the marriage or domestic partnership do not exist at the decedent's
25 death; or

26 (iii) If not for this subsection, the decedent could not have
27 effected the revocation by unilateral action because of the terms of
28 the decree (~~(or)~~), declaration, termination of domestic partnership, or
29 for any other reason, immediately after the entry of the decree of
30 dissolution (~~(or)~~), declaration of invalidity, or termination of
31 domestic partnership.

32 (3)(a) A payor or other third party in possession or control of a
33 nonprobate asset at the time of the decedent's death is not liable for
34 making a payment or transferring an interest in a nonprobate asset to
35 a decedent's former spouse or domestic partner, whose interest in the
36 nonprobate asset is revoked under this section, or for taking another
37 action in reliance on the validity of the instrument governing
38 disposition of the nonprobate asset, before the payor or other third

1 party has actual knowledge of the dissolution or other invalidation of
2 marriage or termination of the domestic partnership. A payor or other
3 third party is liable for a payment or transfer made or other action
4 taken after the payor or other third party has actual knowledge of a
5 revocation under this section.

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

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

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

29 (c) Notwithstanding subsections (1) and (2) of this section and (a)
30 and (b) of this subsection, a payor or other third party having actual
31 knowledge of the existence of a dispute between beneficiaries or other
32 persons concerning rights to a nonprobate asset as a result of the
33 application of this section may condition the payment or transfer of
34 the nonprobate asset on execution, in a form and with security
35 acceptable to the payor or other third party, of a bond in an amount
36 that is double the fair market value of the nonprobate asset at the
37 time of the decedent's death or the amount of an adverse claim,
38 whichever is the lesser, or of a similar instrument to provide security

1 to the payor or other third party, indemnifying the payor or other
2 third party for any liability, loss, damage, costs, and expenses for
3 and on account of payment or transfer of the nonprobate asset.

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

24 (4)(a) A person who purchases a nonprobate asset from a former
25 spouse, former domestic partner, or other person, for value and without
26 actual knowledge, or who receives from a former spouse, former domestic
27 partner, or other person payment or transfer of a nonprobate asset
28 without actual knowledge and in partial or full satisfaction of a
29 legally enforceable obligation, is neither obligated under this section
30 to return the payment, property, or benefit nor is liable under this
31 section for the amount of the payment or the value of the nonprobate
32 asset. However, a former spouse, former domestic partner, or other
33 person who, with actual knowledge, not for value, or not in
34 satisfaction of a legally enforceable obligation, receives payment or
35 transfer of a nonprobate asset to which that person is not entitled
36 under this section is obligated to return the payment or nonprobate
37 asset, or is personally liable for the amount of the payment or value

1 of the nonprobate asset, to the person who is entitled to it under this
2 section.

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

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

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

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

30 (c) A trust of which the person is a grantor and that becomes
31 effective or irrevocable only upon the person's death; or

32 (d) Transfer on death beneficiary designations of a transfer on
33 death or pay on death security, if such designations are authorized
34 under Washington law.

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

1 (6) This section is remedial in nature and applies as of July 25,
2 1993, to decrees of dissolution and declarations of invalidity entered
3 after July 24, 1993, and this section applies as of January 1, 1995, to
4 decrees of dissolution and declarations of invalidity entered before
5 July 25, 1993.

6 (7) For the purposes of this section, "domestic partner" means
7 "domestic partner" as defined under section 2 of this act.

8 **Sec. 13.** RCW 11.94.080 and 2001 c 203 s 1 are each amended to read
9 as follows:

10 (1) An appointment of a principal's spouse or domestic partner as
11 defined under section 2 of this act, as attorney in fact, including
12 appointment as successor or coattorney in fact, under a power of
13 attorney shall be revoked upon entry of a decree of dissolution or
14 legal separation or declaration of invalidity of the marriage or
15 termination of the domestic partnership of the principal and the
16 attorney in fact, unless the power of attorney or the decree provides
17 otherwise. The effect of this revocation shall be as if the spouse or
18 domestic partner, resigned as attorney in fact, or if named as
19 successor attorney in fact, renounced the appointment, as of the date
20 of entry of the decree or declaration or filing of the termination of
21 the domestic partnership, and the power of attorney shall otherwise
22 remain in effect with respect to appointments of other persons as
23 attorney in fact for the principal or procedures prescribed in the
24 power of attorney to appoint other persons, and any terms relating to
25 service by persons as attorney in fact.

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

28 **Sec. 14.** RCW 68.32.020 and 2005 c 365 s 92 are each amended to
29 read as follows:

30 The spouse or domestic partner as defined under section 2 of this
31 act, of an owner of any plot or right of interment containing more than
32 one placement space has a vested right of placement in the plot and any
33 person thereafter becoming the spouse or domestic partner, of the owner
34 has a vested right of placement in the plot if more than one space is
35 unoccupied at the time the person becomes the spouse or domestic
36 partner, of the owner.

1 **Sec. 15.** RCW 68.32.030 and 2005 c 365 s 93 are each amended to
2 read as follows:

3 No conveyance or other action of the owner without the written
4 consent of the spouse or domestic partner as defined under section 2 of
5 this act, of the owner divests the spouse or domestic partner, of a
6 vested right of placement. A final decree of divorce between them or
7 termination of the domestic partnership terminates the vested right of
8 placement unless otherwise provided in the decree.

9 **Sec. 16.** RCW 68.32.040 and 2005 c 365 s 94 are each amended to
10 read as follows:

11 If no placement is made in a plot or right of interment, which has
12 been transferred by deed or certificate of ownership to an individual
13 owner, the title descends to the surviving spouse or domestic partner
14 as defined under section 2 of this act. If there is no surviving
15 spouse or domestic partner, the title descends to the heirs at law of
16 the owner. Following death of the owner, if all remains previously
17 placed are lawfully removed and the owner did not dispose of the plot
18 or right of interment by specific devise or by a written declaration
19 filed and recorded in the office of the cemetery authority, the title
20 descends to the surviving spouse or domestic partner. If there is no
21 surviving spouse or domestic partner, the title descends to the heirs
22 at law of the owner.

23 **Sec. 17.** RCW 68.32.060 and 2005 c 365 s 96 are each amended to
24 read as follows:

25 Whenever an interment of the human remains of a member or of a
26 relative of a member of the family of the record owner or of the
27 remains of the record owner is made in a plot transferred by deed or
28 certificate of ownership to an individual owner and both the owner and
29 the surviving spouse or domestic partner as defined under section 2 of
30 this act, if any, die with children then living without making
31 disposition of the plot either by a specific devise, or by a written
32 declaration filed and recorded in the office of the cemetery authority,
33 the plot shall thereafter be held as a family plot and shall be subject
34 to sale only upon agreement of the children of the owner living at the
35 time of sale.

1 **Sec. 18.** RCW 68.32.110 and 2005 c 365 s 101 are each amended to
2 read as follows:

3 In a family plot one right of interment may be used for the owner's
4 interment and one for the owner's surviving spouse or domestic partner
5 as defined under section 2 of this act, if any. Any unoccupied spaces
6 may then be used by the remaining parents and children of the deceased
7 owner, if any, then to the spouse or domestic partner of any child of
8 the owner, then to the heirs at law of the owner, in the order of
9 death.

10 **Sec. 19.** RCW 68.32.130 and 2005 c 365 s 102 are each amended to
11 read as follows:

12 Any surviving spouse, domestic partner as defined under section 2
13 of this act, parent, child, or heir having a right of placement in a
14 family plot may waive such right in favor of any other relative (~~(or)~~),
15 spouse, or domestic partner of a relative of the deceased owner. Upon
16 such a waiver, the remains of the person in whose favor the waiver is
17 made may be placed in the plot.

18 **Sec. 20.** RCW 68.50.100 and 2003 c 53 s 307 are each amended to
19 read as follows:

20 (1) The right to dissect a dead body shall be limited to cases
21 specially provided by statute or by the direction or will of the
22 deceased; cases where a coroner is authorized to hold an inquest upon
23 the body, and then only as he or she may authorize dissection; and
24 cases where the spouse, domestic partner as defined under section 2 of
25 this act, or next of kin charged by law with the duty of burial shall
26 authorize dissection for the purpose of ascertaining the cause of
27 death, and then only to the extent so authorized: PROVIDED, That the
28 coroner, in his or her discretion, may make or cause to be made by a
29 competent pathologist, toxicologist, or physician, an autopsy or
30 postmortem in any case in which the coroner has jurisdiction of a body:
31 PROVIDED, FURTHER, That the coroner may with the approval of the
32 University of Washington and with the consent of a parent or guardian
33 deliver any body of a deceased person under the age of three years over
34 which he or she has jurisdiction to the University of Washington
35 medical school for the purpose of having an autopsy made to determine
36 the cause of death.

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

4 **Sec. 21.** RCW 68.50.101 and 1987 c 331 s 57 are each amended to
5 read as follows:

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

9 (1) The surviving spouse or domestic partner as defined under
10 section 2 of this act;

11 (2) Any child of the decedent who is eighteen years of age or
12 older;

13 (3) One of the parents of the decedent;

14 (4) Any adult brother or sister of the decedent;

15 (5) A person who was guardian of the decedent at the time of death;

16 (6) Any other person or agency authorized or under an obligation to
17 dispose of the remains of the decedent. The chief official of any such
18 agency shall designate one or more persons to execute authorizations
19 pursuant to the provisions of this section.

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

29 **Sec. 22.** RCW 68.50.105 and 1987 c 331 s 58 are each amended to
30 read as follows:

31 Reports and records of autopsies or post mortems shall be
32 confidential, except that the following persons may examine and obtain
33 copies of any such report or record: The personal representative of
34 the decedent as defined in RCW 11.02.005, any family member, the
35 attending physician, the prosecuting attorney or law enforcement

1 agencies having jurisdiction, public health officials, or to the
2 department of labor and industries in cases in which it has an interest
3 under RCW 68.50.103.

4 The coroner, the medical examiner, or the attending physician
5 shall, upon request, meet with the family of the decedent to discuss
6 the findings of the autopsy or post mortem. For the purposes of this
7 section, the term "family" means the surviving spouse, domestic partner
8 as defined under section 2 of this act, or any child, parent,
9 grandparent, grandchild, brother, or sister of the decedent, or any
10 person who was guardian of the decedent at the time of death.

11 **Sec. 23.** RCW 68.50.160 and 2005 c 365 s 141 are each amended to
12 read as follows:

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

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

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

34 (a) The surviving spouse or domestic partner as defined under
35 section 2 of this act.

36 (b) The surviving adult children of the decedent.

37 (c) The surviving parents of the decedent.

1 (d) The surviving siblings of the decedent.

2 (e) A person acting as a representative of the decedent under the
3 signed authorization of the decedent.

4 (4) If a cemetery authority as defined in RCW 68.04.190 or a
5 funeral establishment licensed under chapter 18.39 RCW has made a good
6 faith effort to locate the person cited in subsection (3)(a) through
7 (e) of this section or the legal representative of the decedent's
8 estate, the cemetery authority or funeral establishment shall have the
9 right to rely on an authority to bury or cremate the human remains,
10 executed by the most responsible party available, and the cemetery
11 authority or funeral establishment may not be held criminally or
12 civilly liable for burying or cremating the human remains. In the
13 event any government agency provides the funds for the disposition of
14 any human remains and the government agency elects to provide funds for
15 cremation only, the cemetery authority or funeral establishment may not
16 be held criminally or civilly liable for cremating the human remains.

17 (5) The liability for the reasonable cost of preparation, care, and
18 disposition devolves jointly and severally upon all kin of the decedent
19 in the same degree of kindred, in the order listed in subsection (3) of
20 this section, and upon the estate of the decedent.

21 **Sec. 24.** RCW 68.50.200 and 2005 c 365 s 144 are each amended to
22 read as follows:

23 Human remains may be removed from a plot in a cemetery with the
24 consent of the cemetery authority and the written consent of one of the
25 following in the order named:

26 (1) The surviving spouse or domestic partner as defined under
27 section 2 of this act.

28 (2) The surviving children of the decedent.

29 (3) The surviving parents of the decedent.

30 (4) The surviving brothers or sisters of the decedent.

31 If the required consent cannot be obtained, permission by the
32 superior court of the county where the cemetery is situated is
33 sufficient: PROVIDED, That the permission shall not violate the terms
34 of a written contract or the rules and regulations of the cemetery
35 authority.

1 **Sec. 25.** RCW 68.50.550 and 1993 c 228 s 4 are each amended to read
2 as follows:

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

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

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

13 (c) The spouse or domestic partner as defined under section 2 of
14 this act, of the decedent;

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

17 (e) Either parent of the decedent;

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

20 (g) A grandparent of the decedent.

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

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

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

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

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

36 (4) An anatomical gift by a person authorized under subsection (1)
37 of this section may be revoked by a member of the same or a prior class

1 if, before procedures have begun for the removal of a part from the
2 body of the decedent, the physician, surgeon, technician, or enucleator
3 removing the part knows of the revocation.

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

6 **Sec. 26.** RCW 11.04.015 and 1974 ex.s. c 117 s 6 are each amended
7 to read as follows:

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

12 (1) Share of surviving spouse or domestic partner as defined under
13 section 2 of this act. The surviving spouse or domestic partner shall
14 receive the following share:

15 (a) All of the decedent's share of the net community estate; and

16 (b) One-half of the net separate estate if the intestate is
17 survived by issue; or

18 (c) Three-quarters of the net separate estate if there is no
19 surviving issue, but the intestate is survived by one or more of his
20 parents, or by one or more of the issue of one or more of his parents;
21 or

22 (d) All of the net separate estate, if there is no surviving issue
23 nor parent nor issue of parent.

24 (2) Shares of others than surviving spouse or domestic partner.
25 The share of the net estate not distributable to the surviving spouse
26 or domestic partner, or the entire net estate if there is no surviving
27 spouse or domestic partner, shall descend and be distributed as
28 follows:

29 (a) To the issue of the intestate; if they are all in the same
30 degree of kinship to the intestate, they shall take equally, or if of
31 unequal degree, then those of more remote degree shall take by
32 representation.

33 (b) If the intestate not be survived by issue, then to the parent
34 or parents who survive the intestate.

35 (c) If the intestate not be survived by issue or by either parent,
36 then to those issue of the parent or parents who survive the intestate;

1 if they are all in the same degree of kinship to the intestate, they
2 shall take equally, or, if of unequal degree, then those of more remote
3 degree shall take by representation.

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

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

19 **Sec. 27.** RCW 11.28.120 and 1995 1st sp.s. c 18 s 61 are each
20 amended to read as follows:

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

26 (1) The surviving spouse or domestic partner as defined under
27 section 2 of this act, or such person as he or she may request to have
28 appointed.

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

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

1 (4) One or more of the beneficiaries or transferees of the
2 decedent's probate or nonprobate assets.

3 (5)(a) The director of revenue, or the director's designee, for
4 those estates having property subject to the provisions of chapter
5 11.08 RCW; however, the director may waive this right.

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

9 (6) One or more of the principal creditors.

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

17 **Sec. 28.** RCW 4.20.020 and 1985 c 139 s 1 are each amended to read
18 as follows:

19 Every such action shall be for the benefit of the wife, husband,
20 domestic partner as defined under section 2 of this act, child or
21 children, including stepchildren, of the person whose death shall have
22 been so caused. If there be no wife (~~(or)~~), husband, domestic partner,
23 or such child or children, such action may be maintained for the
24 benefit of the parents, sisters, or brothers, who may be dependent upon
25 the deceased person for support, and who are resident within the United
26 States at the time of his death.

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

29 **Sec. 29.** RCW 4.20.060 and 1985 c 139 s 2 are each amended to read
30 as follows:

31 No action for a personal injury to any person occasioning death
32 shall abate, nor shall such right of action determine, by reason of
33 such death, if such person has a surviving spouse, domestic partner as
34 defined under section 2 of this act, or child living, including
35 stepchildren, or leaving no surviving spouse, domestic partner, or such
36 children, if there is dependent upon the deceased for support and

1 resident within the United States at the time of decedent's death,
2 parents, sisters, or brothers; but such action may be prosecuted, or
3 commenced and prosecuted, by the executor or administrator of the
4 deceased, in favor of such surviving spouse or domestic partner, or in
5 favor of the surviving spouse or domestic partner and such children, or
6 if no surviving spouse or domestic partner, in favor of such child or
7 children, or if no surviving spouse, domestic partner, or such child or
8 children, then in favor of the decedent's parents, sisters, or brothers
9 who may be dependent upon such person for support, and resident in the
10 United States at the time of decedent's death.

11 **Sec. 30.** RCW 11.94.010 and 2005 c 97 s 12 are each amended to read
12 as follows:

13 (1) Whenever a principal designates another as his or her attorney
14 in fact or agent, by a power of attorney in writing, and the writing
15 contains the words "This power of attorney shall not be affected by
16 disability of the principal," or "This power of attorney shall become
17 effective upon the disability of the principal," or similar words
18 showing the intent of the principal that the authority conferred shall
19 be exercisable notwithstanding the principal's disability, the
20 authority of the attorney in fact or agent is exercisable on behalf of
21 the principal as provided notwithstanding later disability or
22 incapacity of the principal at law or later uncertainty as to whether
23 the principal is dead or alive. All acts done by the attorney in fact
24 or agent pursuant to the power during any period of disability or
25 incompetence or uncertainty as to whether the principal is dead or
26 alive have the same effect and inure to the benefit of and bind the
27 principal or the principal's guardian or heirs, devisees, and personal
28 representative as if the principal were alive, competent, and not
29 disabled. A principal may nominate, by a durable power of attorney,
30 the guardian or limited guardian of his or her estate or person for
31 consideration by the court if protective proceedings for the
32 principal's person or estate are thereafter commenced. The court shall
33 make its appointment in accordance with the principal's most recent
34 nomination in a durable power of attorney except for good cause or
35 disqualification. If a guardian thereafter is appointed for the
36 principal, the attorney in fact or agent, during the continuance of the
37 appointment, shall account to the guardian rather than the principal.

1 The guardian has the same power the principal would have had if the
2 principal were not disabled or incompetent, to revoke, suspend or
3 terminate all or any part of the power of attorney or agency.

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

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

16 (b) Unless he or she is the spouse, domestic partner as defined
17 under section 2 of this act, or adult child or brother or sister of the
18 principal, none of the following persons may act as the attorney-in-
19 fact for the principal: Any of the principal's physicians, the
20 physicians' employees, or the owners, administrators, or employees of
21 the health care facility or long-term care facility as defined in RCW
22 43.190.020 where the principal resides or receives care. Except when
23 the principal has consented in a mental health advance directive
24 executed under chapter 71.32 RCW to inpatient admission or
25 electroconvulsive therapy, this authorization is subject to the same
26 limitations as those that apply to a guardian under RCW 11.92.043(5)
27 (a) through (c).

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

35 (5) A principal may further nominate a guardian or guardians of the
36 person, or of the estate or both, of a minor child, whether born at the
37 time of making the durable power of attorney or afterwards, to continue

1 during the disability of the principal, during the minority of the
2 child or for any less time by including such a provision in his or her
3 power of attorney.

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

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

12 NEW SECTION. **Sec. 31.** A new section is added to chapter 70.58 RCW
13 to read as follows:

14 Information recorded on death certificates shall include domestic
15 partnership status and the surviving partner's information to the same
16 extent such information is recorded for marital status and the
17 surviving spouse's information.

18 NEW SECTION. **Sec. 32.** Sections 2 through 7 of this act constitute
19 a new chapter in Title 26 RCW."

20 Correct the title.

EFFECT: The striking amendment does the following:

(1) Allows blood relatives to register as domestic partners; adds the requirement that the two persons must be prohibited from marrying each other under state law to register as domestic partners. To register, domestic partners must file with the Secretary of State a "declaration of domestic partners in a mutual beneficiary contract."

(2) Recognizes as Washington domestic partnerships those civil unions, domestic partnerships, and other relationships created in other states, provided that the parties meet the requirements under the act.

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