

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 6239**

Chapter 3, Laws of 2012

62nd Legislature  
2012 Regular Session

SAME SEX MARRIAGE

EFFECTIVE DATE: 06/07/12 - Except sections 8 and 9, which are contingent.

Passed by the Senate February 1, 2012  
YEAS 28 NAYS 21

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Passed by the House February 8, 2012  
YEAS 55 NAYS 43

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Approved February 13, 2012, 12:07 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6239** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

\_\_\_\_\_  
**Secretary**

FILED

February 13, 2012

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 6239**

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Passed Legislature - 2012 Regular Session

**State of Washington                      62nd Legislature                      2012 Regular Session**

**By** Senate 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)

READ FIRST TIME 01/27/12.

1            AN ACT Relating to providing equal protection for all families in  
2 Washington by creating equality in civil marriage and changing the  
3 domestic partnership laws, while protecting religious freedom; amending  
4 RCW 26.04.010, 26.04.020, 26.04.050, 26.04.060, 26.04.070, 26.60.010,  
5 26.60.030, 26.60.090, and 1.12.080; adding new sections to chapter  
6 26.04 RCW; adding a new section to chapter 26.60 RCW; adding a new  
7 section to chapter 26.33 RCW; adding a new section to chapter 74.13  
8 RCW; adding a new section to chapter 74.15 RCW; creating new sections;  
9 and providing a contingent effective date.

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

11            **Sec. 1.** RCW 26.04.010 and 1998 c 1 s 3 are each amended to read as  
12 follows:

13            (1) Marriage is a civil contract between (~~a male and a female~~)  
14 two persons who have each attained the age of eighteen years, and who  
15 are otherwise capable.

16            (2) Every marriage entered into in which either (~~the husband or~~  
17 ~~the wife~~) person has not attained the age of seventeen years is void  
18 except where this section has been waived by a superior court judge of

1 the county in which one of the parties resides on a showing of  
2 necessity.

3 (3) Where necessary to implement the rights and responsibilities of  
4 spouses under the law, gender specific terms such as husband and wife  
5 used in any statute, rule, or other law must be construed to be gender  
6 neutral and applicable to spouses of the same sex.

7 (4) No regularly licensed or ordained minister or any priest, imam,  
8 rabbi, or similar official of any religious organization is required to  
9 solemnize or recognize any marriage. A regularly licensed or ordained  
10 minister or priest, imam, rabbi, or similar official of any religious  
11 organization shall be immune from any civil claim or cause of action  
12 based on a refusal to solemnize or recognize any marriage under this  
13 section. No state agency or local government may base a decision to  
14 penalize, withhold benefits from, or refuse to contract with any  
15 religious organization on the refusal of a person associated with such  
16 religious organization to solemnize or recognize a marriage under this  
17 section.

18 (5) No religious organization is required to provide  
19 accommodations, facilities, advantages, privileges, services, or goods  
20 related to the solemnization or celebration of a marriage.

21 (6) A religious organization shall be immune from any civil claim  
22 or cause of action, including a claim pursuant to chapter 49.60 RCW,  
23 based on its refusal to provide accommodations, facilities, advantages,  
24 privileges, services, or goods related to the solemnization or  
25 celebration of a marriage.

26 (7) For purposes of this section:

27 (a) "Recognize" means to provide religious-based services that:

28 (i) Are delivered by a religious organization, or by an individual  
29 who is managed, supervised, or directed by a religious organization;  
30 and

31 (ii) Are designed for married couples or couples engaged to marry  
32 and are directly related to solemnizing, celebrating, strengthening, or  
33 promoting a marriage, such as religious counseling programs, courses,  
34 retreats, and workshops; and

35 (b) "Religious organization" includes, but is not limited to,  
36 churches, mosques, synagogues, temples, nondenominational ministries,  
37 interdenominational and ecumenical organizations, mission

1 organizations, faith-based social agencies, and other entities whose  
2 principal purpose is the study, practice, or advancement of religion.

3 **Sec. 2.** RCW 26.04.020 and 1998 c 1 s 4 are each amended to read as  
4 follows:

5 (1) Marriages in the following cases are prohibited:

6 (a) When either party thereto has a (~~wife or husband~~) spouse or  
7 registered domestic partner living at the time of such marriage, unless  
8 the registered domestic partner is the other party to the marriage; or

9 (b) When the (~~husband and wife~~) spouses are nearer of kin to each  
10 other than second cousins, whether of the whole or half blood computing  
11 by the rules of the civil law(~~;~~ ~~or~~

12 ~~(c) When the parties are persons other than a male and a female~~)).

13 (2) It is unlawful for any (~~man to marry his father's sister,~~  
14 ~~mother's sister, daughter, sister, son's daughter, daughter's daughter,~~  
15 ~~brother's daughter or sister's daughter; it is unlawful for any woman~~  
16 ~~to marry her father's brother, mother's brother, son, brother, son's~~  
17 ~~son, daughter's son, brother's son or sister's son~~) person to marry  
18 his or her sibling, child, grandchild, aunt, uncle, niece, or nephew.

19 (3) A marriage between two persons that is recognized as valid in  
20 another jurisdiction is valid in this state only if the marriage is not  
21 prohibited or made unlawful under subsection (1)(a)(~~, (1)(c),~~) or (2)  
22 of this section.

23 (4) A legal union, other than a marriage, between two individuals  
24 that was validly formed in another state or jurisdiction and that  
25 provides substantially the same rights, benefits, and responsibilities  
26 as a marriage, does not prohibit those same two individuals from  
27 obtaining a marriage license in Washington.

28 (5) No state agency or local government may base a decision to  
29 penalize, withhold benefits from, license, or refuse to contract with  
30 any religious organization based on the opposition to or refusal to  
31 provide accommodations, facilities, advantages, privileges, service, or  
32 goods related to the solemnization or celebration of a marriage.

33 (6) No religiously affiliated educational institution shall be  
34 required to provide accommodations, facilities, advantages, privileges,  
35 service, or goods related to the solemnization or celebration of a  
36 marriage, including a use of any campus chapel or church. A  
37 religiously affiliated educational institution shall be immune from a

1 civil claim or cause of action, including a claim pursuant to chapter  
2 49.60 RCW, based on its refusal to provide accommodations, facilities,  
3 advantages, privileges, service, or goods related to the solemnization  
4 or celebration of a marriage under this subsection shall be immune for  
5 civil claim or cause of action, including a claim pursuant to chapter  
6 49.60 RCW.

7 NEW SECTION. **Sec. 3.** "Religious organization" as defined in this  
8 chapter must be interpreted liberally to include faith-based social  
9 service organizations involved in social services directed at the  
10 larger community.

11 **Sec. 4.** RCW 26.04.050 and 2007 c 29 s 1 are each amended to read  
12 as follows:

13 The following named officers and persons, active or retired, are  
14 hereby authorized to solemnize marriages, to wit: Justices of the  
15 supreme court, judges of the court of appeals, judges of the superior  
16 courts, supreme court commissioners, court of appeals commissioners,  
17 superior court commissioners, any regularly licensed or ordained  
18 minister or any priest, imam, rabbi, or similar official of any  
19 (~~church or~~) religious (~~denomination~~) organization, and judges of  
20 courts of limited jurisdiction as defined in RCW 3.02.010.

21 **Sec. 5.** RCW 26.04.060 and 1975-'76 2nd ex.s. c 42 s 25 are each  
22 amended to read as follows:

23 A marriage solemnized before any person professing to be a minister  
24 or a priest (~~of any~~), imam, rabbi, or similar official of any  
25 religious (~~denomination~~) organization in this state or professing to  
26 be an authorized officer thereof, is not void, nor shall the validity  
27 thereof be in any way affected on account of any want of power or  
28 authority in such person, if such marriage be consummated with a belief  
29 on the part of the persons so married, or either of them, that they  
30 have been lawfully joined in marriage.

31 **Sec. 6.** RCW 26.04.070 and Code 1881 s 2383 are each amended to  
32 read as follows:

33 In the solemnization of marriage no particular form is required,  
34 except that the parties thereto shall assent or declare in the presence

1 of the minister, priest, imam, rabbi, or similar official of any  
2 religious organization, or judicial officer solemnizing the same, and  
3 in the presence of at least two attending witnesses, that they take  
4 each other to be (~~husband and wife~~) spouses.

5 NEW SECTION. Sec. 7. A new section is added to chapter 26.04 RCW  
6 to read as follows:

7 For purposes of this chapter, "religious organization" includes,  
8 but is not limited to, churches, mosques, synagogues, temples,  
9 nondenominational ministries, interdenominational and ecumenical  
10 organizations, mission organizations, faith-based social agencies, and  
11 other entities whose principal purpose is the study, practice, or  
12 advancement of religion.

13 **Sec. 8.** RCW 26.60.010 and 2007 c 156 s 1 are each amended to read  
14 as follows:

15 Many Washingtonians are in intimate, committed, and exclusive  
16 relationships with another person to whom they are not legally married.  
17 These relationships are important to the individuals involved and their  
18 families; they also benefit the public by providing a private source of  
19 mutual support for the financial, physical, and emotional health of  
20 those individuals and their families. The public has an interest in  
21 providing a legal framework for such mutually supportive relationships,  
22 whether the partners are of the same or different sexes, and  
23 irrespective of their sexual orientation.

24 (~~The legislature finds that same sex couples, because they cannot~~  
25 ~~marry in this state, do not automatically have the same access that~~  
26 ~~married couples have to certain rights and benefits, such as those~~  
27 ~~associated with hospital visitation, health care decision making, organ~~  
28 ~~donation decisions, and other issues related to illness, incapacity,~~  
29 ~~and death. Although many of these rights and benefits may be secured~~  
30 ~~by private agreement, doing so often is costly and complex.))~~

31 The legislature (~~also~~) finds that the public interest would be  
32 served by extending rights and benefits to (~~different sex~~) couples in  
33 which either or both of the partners (~~is~~) are at least sixty-two  
34 years of age. While these couples are entitled to marry under the  
35 state's marriage statutes, some social security and pension laws  
36 nevertheless make it impractical for these couples to marry. For this

1 reason, chapter 156, Laws of 2007 specifically allows couples to enter  
2 into a state registered domestic partnership if one of the persons is  
3 at least sixty-two years of age, the age at which many people choose to  
4 retire and are eligible to begin collecting social security and pension  
5 benefits.

6 The rights granted to state registered domestic partners in chapter  
7 156, Laws of 2007 will further Washington's interest in promoting  
8 family relationships and protecting family members during life crises.  
9 Chapter 156, Laws of 2007 does not affect marriage or any other ways in  
10 which legal rights and responsibilities between two adults may be  
11 created, recognized, or given effect in Washington.

12 **Sec. 9.** RCW 26.60.030 and 2007 c 156 s 4 are each amended to read  
13 as follows:

14 To enter into a state registered domestic partnership the two  
15 persons involved must meet the following requirements:

16 (1) Both persons share a common residence;

17 (2) Both persons are at least eighteen years of age and at least  
18 one of the persons is sixty-two years of age or older;

19 (3) Neither person is married to someone other than the party to  
20 the domestic partnership and neither person is in a state registered  
21 domestic partnership with another person;

22 (4) Both persons are capable of consenting to the domestic  
23 partnership; and

24 (5) Both of the following are true:

25 (a) The persons are not nearer of kin to each other than second  
26 cousins, whether of the whole or half blood computing by the rules of  
27 the civil law; and

28 (b) Neither person is a sibling, child, grandchild, aunt, uncle,  
29 niece, or nephew to the other person(~~(; and~~

30 ~~(6) Either (a) both persons are members of the same sex; or (b) at~~  
31 ~~least one of the persons is sixty two years of age or older)).~~

32 NEW SECTION. **Sec. 10.** A new section is added to chapter 26.60 RCW  
33 to read as follows:

34 (1) Partners in a state registered domestic partnership may apply  
35 and receive a marriage license and have such marriage solemnized

1 pursuant to chapter 26.04 RCW, so long as the parties are otherwise  
2 eligible to marry, and the parties to the marriage are the same as the  
3 parties to the state registered domestic partnership.

4 (2) A state registered domestic partnership is dissolved by  
5 operation of law by any marriage of the same parties to each other, as  
6 of the date of the marriage stated in the certificate.

7 (3)(a) Except as provided in (b) of this subsection, any state  
8 registered domestic partnership in which the parties are the same sex,  
9 and neither party is sixty-two years of age or older, that has not been  
10 dissolved or converted into a marriage by the parties by June 30, 2014,  
11 is automatically merged into a marriage and is deemed a marriage as of  
12 June 30, 2014.

13 (b) If the parties to a state registered domestic partnership have  
14 proceedings for dissolution, annulment, or legal separation pending as  
15 of June 30, 2014, the parties' state registered domestic partnership is  
16 not automatically merged into a marriage and the dissolution,  
17 annulment, or legal separation of the state registered domestic  
18 partnership is governed by the provisions of the statutes applicable to  
19 state registered domestic partnerships in effect before June 30, 2014.  
20 If such proceedings are finalized without dissolution, annulment, or  
21 legal separation, the state registered domestic partnership is  
22 automatically merged into a marriage and is deemed a marriage as of  
23 June 30, 2014.

24 (4) For purposes of determining the legal rights and  
25 responsibilities involving individuals who had previously had a state  
26 registered domestic partnership and have been issued a marriage license  
27 or are deemed married under the provisions of this section, the date of  
28 the original state registered domestic partnership is the legal date of  
29 the marriage. Nothing in this subsection prohibits a different date  
30 from being included on the marriage license.

31 NEW SECTION. **Sec. 11.** A new section is added to chapter 26.04 RCW  
32 to read as follows:

33 If two persons in Washington have a legal union, other than a  
34 marriage, that:

35 (1) Was validly formed in another state or jurisdiction;

36 (2) Provides substantially the same rights, benefits, and  
37 responsibilities as a marriage; and

1 (3) Does not meet the definition of domestic partnership in RCW  
2 26.60.030,  
3 then they shall be treated as having the same rights and  
4 responsibilities as married spouses in this state, unless:  
5 (a) Such relationship is prohibited by RCW 26.04.020 (1)(a) or (2);  
6 or  
7 (b) They become permanent residents of Washington state and do not  
8 enter into a marriage within one year after becoming permanent  
9 residents.

10 **Sec. 12.** RCW 26.60.090 and 2011 c 9 s 1 are each amended to read  
11 as follows:

12 A legal union, other than a marriage, of two persons (~~of the same~~  
13 ~~sex~~) that was validly formed in another jurisdiction, and that is  
14 substantially equivalent to a domestic partnership under this chapter,  
15 shall be recognized as a valid domestic partnership in this state and  
16 shall be treated the same as a domestic partnership registered in this  
17 state regardless of whether it bears the name domestic partnership.

18 **Sec. 13.** RCW 1.12.080 and 2011 c 9 s 2 are each amended to read as  
19 follows:

20 For the purposes of this code and any legislation hereafter enacted  
21 by the legislature or by the people, with the exception of chapter  
22 26.04 RCW, the terms spouse, marriage, marital, husband, wife, widow,  
23 widower, next of kin, and family shall be interpreted as applying  
24 equally to state registered domestic partnerships or individuals in  
25 state registered domestic partnerships as well as to marital  
26 relationships and married persons, and references to dissolution of  
27 marriage shall apply equally to state registered domestic partnerships  
28 that have been terminated, dissolved, or invalidated, unless the  
29 legislation expressly states otherwise and to the extent that such  
30 interpretation does not conflict with federal law. Where necessary to  
31 implement chapter 521, Laws of 2009 and this act, gender-specific terms  
32 such as husband and wife used in any statute, rule, or other law shall  
33 be construed to be gender neutral, and applicable to individuals in  
34 state registered domestic partnerships and spouses of the same sex.

1        NEW SECTION.    **Sec. 14.**    A new section is added to chapter 26.33 RCW  
2 to read as follows:

3        Nothing contained in chapter . . . , Laws of 2012 (this act) shall  
4 be construed to alter or affect existing law regarding the manner in  
5 which a religious or nonprofit organization may be licensed to and  
6 provide adoption, foster care, or other child-placing services under  
7 this chapter or chapter 74.15 or 74.13 RCW.

8        NEW SECTION.    **Sec. 15.**    A new section is added to chapter 74.13 RCW  
9 to read as follows:

10       Nothing contained in chapter . . . , Laws of 2012 (this act) shall  
11 be construed to alter or affect existing law regarding the manner in  
12 which a religious or nonprofit organization may be licensed to and  
13 provide adoption, foster care, or other child-placing services under  
14 this chapter or chapter 74.15 or 26.33 RCW.

15       NEW SECTION.    **Sec. 16.**    A new section is added to chapter 74.15 RCW  
16 to read as follows:

17       Nothing contained in chapter . . . , Laws of 2012 (this act) shall  
18 be construed to alter or affect existing law regarding the manner in  
19 which a religious or nonprofit organization may be licensed to and  
20 provide adoption, foster care, or other child-placing services under  
21 this chapter or chapter 74.13 or 26.33 RCW.

22       NEW SECTION.    **Sec. 17.**    (1) Within sixty days after the effective  
23 date of this section, the secretary of state shall send a letter to the  
24 mailing address on file of each same-sex domestic partner registered  
25 under chapter 26.60 RCW notifying the person that Washington's law on  
26 the rights and responsibilities of state registered domestic partners  
27 will change in relation to certain same-sex registered domestic  
28 partners.

29       (2) The notice must provide a brief summary of the new law and must  
30 clearly state that provisions related to certain same-sex registered  
31 domestic partnerships will change as of the effective dates of this  
32 act, and that those same-sex registered domestic partnerships that are  
33 not dissolved prior to June 30, 2014, will be converted to marriage as  
34 an act of law.

1           (3) The secretary of state shall send a second similar notice to  
2 the mailing address on file of each domestic partner registered under  
3 chapter 26.60 RCW by May 1, 2014.

4           NEW SECTION.   **Sec. 18.** Sections 8 and 9 of this act take effect  
5 June 30, 2014, but only if all other provisions of this act are  
6 implemented.

Passed by the Senate February 1, 2012.

Passed by the House February 8, 2012.

Approved by the Governor February 13, 2012.

Filed in Office of Secretary of State February 13, 2012.