
SENATE BILL 5769

State of Washington

57th Legislature

2001 Regular Session

By Senators Thibaudeau, Kohl-Welles, Prentice, Constantine, Regala, Costa and Kline

Read first time 02/01/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to civil unions; amending RCW 26.04.020, 26.12.220,
2 36.18.010, 43.70.150, 43.70.160, 70.58.005, 70.58.104, 70.58.107, and
3 9A.64.010; adding a new chapter to Title 26 RCW; and prescribing
4 penalties.

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Certificate of civil union" means a document that certifies
9 that the persons named in the certificate have established a civil
10 union in this state in compliance with this chapter.

11 (2) "Civil union" means that two eligible persons have established
12 a legal relationship pursuant to this chapter, and may receive the
13 benefits and protections and be subject to the obligations and
14 responsibilities of spouses.

15 (3) "Marriage" means marriage as defined in RCW 26.04.010.

16 (4) "Party to a civil union" or "partner in a civil union" means a
17 person who has established a civil union pursuant to this chapter.

1 NEW SECTION. **Sec. 2.** (1) Parties to a civil union must satisfy
2 the following criteria in order to establish a civil union:

3 (a) Neither party may be a party to another civil union or a
4 marriage;

5 (b) The parties to the civil union must be of the same sex and
6 therefore excluded from the marriage laws of this state;

7 (c) The parties may not be nearer of kin to each other than second
8 cousins, whether of the whole or half blood;

9 (d) Both parties must be eighteen years of age or older; and

10 (e) Both parties must be capable of consenting to the civil union.

11 (2) A civil union that violates subsection (1)(a), (b), or (c) of
12 this section is void.

13 (3) When either party to a civil union is incapable of consenting
14 to the civil union, for lack of legal age or a sufficient
15 understanding, or when the consent of either party is obtained by force
16 or fraud, the civil union is voidable, but only at the suit of the
17 party who lacked capacity to consent, or upon whom the force or fraud
18 was imposed.

19 NEW SECTION. **Sec. 3.** (1) It is unlawful for a woman to enter a
20 civil union with her father's sister, mother's sister, daughter,
21 sister, son's daughter, daughter's daughter, brother's daughter, or
22 sister's daughter. It is unlawful for a man to enter a civil union
23 with his father's brother, mother's brother, son, brother, son's son,
24 daughter's son, brother's son, or sister's son.

25 (2) A civil union between two persons that is recognized as valid
26 in another jurisdiction is valid in this state only if the civil union
27 is not prohibited under section 2(1) (a) or (b) of this act or made
28 unlawful under this section.

29 NEW SECTION. **Sec. 4.** (1) Parties to a civil union have all the
30 same benefits, protections, obligations, and responsibilities under
31 law, whether they derive from statute, administrative or court rule,
32 policy, common law, or any other source of civil law, as are granted to
33 spouses in a marriage.

34 (2) A party to a civil union shall be included in any definition or
35 use of the terms "spouse," "family," "immediate family," "dependent,"
36 "next of kin," and other terms that denote the spousal relationship, as
37 those terms are used throughout the law.

1 (3) Parties to a civil union are responsible for the support of one
2 another to the same degree and in the same manner as prescribed under
3 law for married persons.

4 (4) The law of domestic relations, including community property,
5 separation and dissolution, child custody and support, property
6 division, and maintenance apply to parties to a civil union.

7 (5) Parties to a civil union may modify the terms, conditions, or
8 effects of their civil union in the same manner and to the same extent
9 as married persons who execute an agreement recognized and enforceable
10 under the law, setting forth particular understandings with respect to
11 their union.

12 (6) The rights of parties to a civil union, with respect to a child
13 of whom either party becomes the natural parent during the term of the
14 civil union, is the same as those of a married couple, with respect to
15 a child of whom either spouse becomes the natural parent during the
16 marriage.

17 NEW SECTION. **Sec. 5.** The family court has jurisdiction over all
18 proceedings relating to the dissolution of civil unions. The
19 dissolution of civil unions shall follow the same procedures and are
20 subject to the same substantive rights and obligations that are
21 involved in the dissolution of marriage in accordance with chapter
22 26.09 RCW, including child support, parenting plans, property division,
23 and maintenance.

24 NEW SECTION. **Sec. 6.** The following named officers and persons,
25 active or retired, are hereby authorized to certify civil unions:
26 Justices of the supreme court, judges of the court of appeals, judges
27 of the superior courts, superior court commissioners, any regularly
28 licensed or ordained minister or any priest of any church or religious
29 denomination, and judges of courts of limited jurisdiction as defined
30 in RCW 3.02.010.

31 NEW SECTION. **Sec. 7.** A civil union certified by any person who
32 falsely professes to be a judicial officer or a minister or priest of
33 any religious denomination in this state or who falsely professes to be
34 an authorized officer thereof, is valid if the civil union is otherwise
35 valid and was entered into with a belief on the part of either party
36 that he or she has been lawfully joined in a civil union.

1 NEW SECTION. **Sec. 8.** In the certification of a civil union no
2 particular form is required, except that the parties shall assent or
3 declare in the presence of the minister, priest, or judicial officer
4 who is certifying the civil union, and in the presence of at least two
5 attending witnesses, that they take each other to be joined in a civil
6 union.

7 NEW SECTION. **Sec. 9.** The person certifying a civil union shall
8 give to each of the parties, if required, a certificate specifying the
9 names and residence of the parties, and of at least two witnesses
10 present, the time and place of the civil union, the date of the
11 certification, and by whom issued.

12 NEW SECTION. **Sec. 10.** A person certifying a civil union shall,
13 within thirty days thereafter, make and deliver to the county auditor
14 of the county wherein the license was issued a certificate for the
15 files of the county auditor, and a certificate for the files of the
16 state registrar of vital statistics. The certificate for the files of
17 the county auditor shall be substantially as follows:

18 STATE OF WASHINGTON
19
20 COUNTY OF

21 This is to certify that the undersigned, a, by
22 authority of a license bearing date the day of
23 A.D., 20. . . ., and issued by the county auditor of the county of
24, did, on the day of A.D., 20. . . ., at
25 in this county and state, join in a lawful civil union A.B.
26 of the county of, state of and C.D. of the
27 county of, state of, with their mutual assent,
28 in the presence of F H and E G, witnesses.

29 In Testimony Whereof, witness the signatures of the parties to the
30 ceremony, the witnesses and myself, this day of,
31 A.D., 20. . . .

32 The certificate form for the files of the state registrar of vital
33 statistics shall be the Washington department of health marriage
34 certificate form. The certificate forms for the files of the county
35 auditor and for the files of the state registrar of vital statistics
36 shall be provided by the state registrar of vital statistics.

1 Any person certifying a civil union, who willfully refuses or
2 neglects to make and deliver the certificates to the county auditor for
3 record within the time specified is guilty of a misdemeanor, and upon
4 conviction shall pay a fine of not less than twenty-five nor more than
5 three hundred dollars.

6 NEW SECTION. **Sec. 11.** The county auditor shall file the
7 certificates and record them or bind them into numbered volumes, and
8 note on the original index to the license issued the volume and page
9 where the certificate is recorded or bound. The county auditor shall
10 enter the date of filing and his or her name on the certificates for
11 the files of the state registrar of vital statistics, and transmit, by
12 the tenth day of each month, all certificates filed with him or her
13 during the preceding month.

14 NEW SECTION. **Sec. 12.** (1) Before any persons may enter into a
15 civil union, they must obtain a civil union license from the county
16 auditor, upon payment of a civil union license fee as fixed in RCW
17 36.18.010.

18 A person may secure by mail an application for a civil union
19 license from the county auditor of the county where the person intends
20 to enter into a civil union, and execute and acknowledge the
21 application before a notary public.

22 Application for a civil union license must be made and filed with
23 the appropriate county auditor upon blanks to be provided by the county
24 auditor for that purpose. The application shall be under the oath of
25 each of the applicants, and each application shall state the name,
26 address at the time of execution of application, age, social security
27 number, birthplace, whether single, widowed, or divorced, whether under
28 the control of a guardian, and residence during the past six months.
29 Each county may require such other information on the application as it
30 deems necessary.

31 (2) The county legislative authority may impose an additional fee
32 up to fifteen dollars on a civil union license for the purpose of
33 funding family services such as family support centers.

34 NEW SECTION. **Sec. 13.** In addition to the application provided for
35 in section 12 of this act, the county auditor for the county wherein
36 the license is issued shall submit to each applicant at the time of

1 application for a license the Washington state department of health
2 civil union certificate form to be completed by the applicants and
3 returned to the county auditor for the files of the state registrar of
4 vital statistics. After the execution of the application for, and the
5 issuance of a license, no county shall require the persons authorized
6 to certify civil unions to obtain any further information from the
7 persons entering into the civil union except the names and county of
8 residence of the parties.

9 NEW SECTION. **Sec. 14.** The county auditor may issue the civil
10 union license at the time of application, but shall issue the license
11 no later than the third full day following the date of the application.
12 A civil union license issued according to the provisions of this
13 chapter may not be used until three days after the date of application
14 and becomes void if the civil union is not certified within sixty days
15 of the date of the issuance of the license. The county auditor shall
16 notify the applicant in writing of this requirement at the time of
17 issuance of the license.

18 NEW SECTION. **Sec. 15.** A county auditor is authorized to refuse to
19 issue a license to enter into a civil union if the applications
20 executed by the parties or information coming to the county auditor's
21 knowledge as a result of the execution of the applications justifies
22 the refusal. A party who is denied a license may appeal to the
23 superior court of the county for an order to show cause, directed to
24 the county auditor, to appear before the court to show why the court
25 should not grant an order to issue a license to the denied party.
26 After a hearing, or if the auditor fails to appear, the court may in
27 its discretion issue an order to the auditor directing him or her to
28 issue the license. Hearings held by a superior court may, in the
29 discretion of the court, be held in chambers.

30 NEW SECTION. **Sec. 16.** (1) Civil union license applications shall
31 be open to public inspection as a part of the records of the office of
32 the county auditor.

33 (2) The county auditor may preserve copies of civil union license
34 applications submitted and civil union licenses issued under this
35 chapter in the same manner as authorized for the recording of
36 instruments under RCW 65.04.040.

1 (3) If a program participant under chapter 40.24 RCW notifies the
2 appropriate county auditor as required under rules adopted by the
3 secretary of state, the county auditor shall not make available for
4 inspection or copying the name and address of a program participant
5 contained in civil union license applications and records filed under
6 chapter 26.04 RCW, except under the following circumstances:

7 (a) If requested by a law enforcement agency, to the law
8 enforcement agency; and

9 (b) If directed by a court order, to a person identified in the
10 order.

11 NEW SECTION. **Sec. 17.** Any person intentionally violating any
12 provision of sections 13 through 16 of this act is guilty of a
13 misdemeanor.

14 NEW SECTION. **Sec. 18.** (1) The county auditor, before a civil
15 union license is issued, shall require each applicant to make and file
16 in the auditor's office upon blanks to be provided by the county for
17 that purpose, an affidavit showing that, if an applicant has a
18 contagious sexually transmitted disease, the condition is known to both
19 applicants. In addition, the affidavit shall state that the applicants
20 are each eighteen years of age or older. If written consent is
21 obtained of the father, mother, or legal guardian of the person for
22 whom the license is required, the license may be granted in cases where
23 a party has attained the age of seventeen years. The affidavit may be
24 subscribed and sworn to before any person authorized to administer
25 oaths. Anyone knowingly swearing falsely to any of the statements
26 contained in the affidavit is guilty of perjury.

27 (2) The affidavit form shall be designed to require a statement
28 that no contagious sexually transmitted disease is present or that the
29 condition is known to both applicants, without requiring the applicants
30 to state whether or not either or both of them has a sexually
31 transmitted disease.

32 (3) A person who knowingly violates any of the provisions of this
33 section shall, upon conviction, be punished by a fine of not more than
34 one thousand dollars, or by imprisonment in a state correctional
35 facility for a period of not more than three years, or by both such
36 fine and imprisonment.

1 NEW SECTION. **Sec. 19.** The county auditor who issues the civil
2 union license, before delivering it, shall enter in the civil union
3 record a memorandum of the names of the parties, the consent of the
4 parents or guardian, if required, and the name of the affiant and the
5 substance of the affidavit upon which the license issued, and the date
6 of the license.

7 NEW SECTION. **Sec. 20.** A person who undertakes to certify civil
8 unions knowing that he or she is not lawfully authorized to do so, or
9 a person who is authorized to certify civil unions, who does so
10 contrary to the provisions of this chapter, shall, upon conviction, be
11 punished by a fine of not more than five hundred nor less than one
12 hundred dollars.

13 NEW SECTION. **Sec. 21.** Every person who certifies a civil union
14 when the person knows that either party to the civil union is under the
15 age of legal consent or that there is a legal impediment to entering
16 the civil union is guilty of a gross misdemeanor.

17 **Sec. 22.** RCW 26.04.020 and 1998 c 1 s 4 are each amended to read
18 as follows:

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

20 (a) When either party thereto has a wife ((~~or~~)), husband, or civil
21 union partner living at the time of such marriage;

22 (b) When the husband and wife are nearer of kin to each other than
23 second cousins, whether of the whole or half blood computing by the
24 rules of the civil law; or

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

26 (2) It is unlawful for any man to marry his father's sister,
27 mother's sister, daughter, sister, son's daughter, daughter's daughter,
28 brother's daughter or sister's daughter; it is unlawful for any woman
29 to marry her father's brother, mother's brother, son, brother, son's
30 son, daughter's son, brother's son or sister's son.

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

1 **Sec. 23.** RCW 26.12.220 and 1994 c 267 s 4 are each amended to read
2 as follows:

3 (1) The legislative authority of any county may authorize family
4 court services as provided in RCW 26.12.230. The legislative authority
5 may impose a fee in excess of that prescribed in RCW 36.18.010 for the
6 issuance of a marriage license or civil union license. The fee shall
7 not exceed eight dollars.

8 (2) In addition to any other funds used therefor, the governing
9 body of any county shall use the proceeds from the fee increase
10 authorized by this section to pay the expenses of the family court and
11 the family court services under chapter 26.12 RCW. If there is no
12 family court in the county, the legislative authority may provide such
13 services through other county agencies or may contract with a public or
14 private agency or person to provide such services. Family court
15 services also may be provided jointly with other counties as provided
16 in RCW 26.12.230.

17 (3) The family court services program may hire professional
18 employees to provide the investigation, evaluation and reporting, and
19 mediation services, or the county may contract for these services, or
20 both. To facilitate and promote the purposes of this chapter, the
21 court may order or recommend the aid of physicians, psychiatrists, or
22 other specialists.

23 (4) The family court services program may provide or contract for:
24 (a) Mediation; (b) investigation, evaluation, and reporting to the
25 court; and (c) reconciliation; and may provide a referral mechanism for
26 drug and alcohol testing, monitoring, and treatment; and any other
27 treatment, parenting, or anger management programs the family court
28 professional considers necessary or appropriate.

29 (5) Services other than family court investigation, evaluation,
30 reconciliation, and mediation services shall be at the expense of the
31 parties involved absent a court order to the contrary. The parties
32 shall bear all or a portion of the cost of parenting seminars and
33 family court investigation, evaluation, reconciliation, and mediation
34 services according to the parties' ability to pay.

35 (6) The county legislative authority may establish rules of
36 eligibility for the family court services funded under this section.
37 The rules shall not conflict with rules of the court adopted under
38 chapter 26.12 RCW or any other statute.

1 (7) The legislative authority may establish fees for family court
2 investigation, evaluation, reconciliation, and mediation services under
3 this chapter according to the parties' ability to pay for the services.
4 Fees collected under this section shall be collected and deposited in
5 the same manner as other county funds are collected and deposited, and
6 shall be maintained in a separate account to be used as provided in
7 this section.

8 **Sec. 24.** RCW 36.18.010 and 1999 c 233 s 3 are each amended to read
9 as follows:

10 County auditors or recording officers shall collect the following
11 fees for their official services:

12 For recording instruments, for the first page eight and one-half by
13 fourteen inches or less, five dollars; for each additional page eight
14 and one-half by fourteen inches or less, one dollar. The fee for
15 recording multiple transactions contained in one instrument will be
16 calculated for each transaction requiring separate indexing as required
17 under RCW 65.04.050 as follows: The fee for each title or transaction
18 is the same fee as the first page of any additional recorded document;
19 the fee for additional pages is the same fee as for any additional
20 pages for any recorded document; the fee for the additional pages may
21 be collected only once and may not be collected for each title or
22 transaction;

23 For preparing and certifying copies, for the first page eight and
24 one-half by fourteen inches or less, three dollars; for each additional
25 page eight and one-half by fourteen inches or less, one dollar;

26 For preparing noncertified copies, for each page eight and one-half
27 by fourteen inches or less, one dollar;

28 For administering an oath or taking an affidavit, with or without
29 seal, two dollars;

30 For issuing a marriage license or civil union license, eight
31 dollars, (this fee includes taking necessary affidavits, filing
32 returns, indexing, and transmittal of a record of the marriage or civil
33 union to the state registrar of vital statistics) plus an additional
34 five-dollar fee for use and support of the prevention of child abuse
35 and neglect activities to be transmitted monthly to the state treasurer
36 and deposited in the state general fund plus an additional ten-dollar
37 fee to be transmitted monthly to the state treasurer and deposited in
38 the state general fund. The legislature intends to appropriate an

1 amount at least equal to the revenue generated by this fee for the
2 purposes of the displaced homemaker act, chapter 28B.04 RCW;

3 For searching records per hour, eight dollars;

4 For recording plats, fifty cents for each lot except cemetery plats
5 for which the charge shall be twenty-five cents per lot; also one
6 dollar for each acknowledgment, dedication, and description: PROVIDED,
7 That there shall be a minimum fee of twenty-five dollars per plat;

8 For recording of miscellaneous records not listed above, for the
9 first page eight and one-half by fourteen inches or less, five dollars;
10 for each additional page eight and one-half by fourteen inches or less,
11 one dollar;

12 For modernization and improvement of the recording and indexing
13 system, a surcharge as provided in RCW 36.22.170.

14 For recording an emergency nonstandard document as provided in RCW
15 65.04.047, fifty dollars, in addition to all other applicable recording
16 fees.

17 **Sec. 25.** RCW 43.70.150 and 1989 1st ex.s. c 9 s 254 are each
18 amended to read as follows:

19 The secretary of health shall have charge of the state system of
20 registration of births, deaths, fetal deaths, marriages, civil unions,
21 and decrees of divorce, annulment and separate maintenance, and shall
22 prepare the necessary rules, forms, and blanks for obtaining records,
23 and insure the faithful registration thereof.

24 **Sec. 26.** RCW 43.70.160 and 1989 1st ex.s. c 9 s 255 are each
25 amended to read as follows:

26 The state registrar of vital statistics shall prepare, print, and
27 supply to all registrars all blanks and forms used in registering,
28 recording, and preserving the returns, or in otherwise carrying out the
29 purposes of Title 70 RCW; and shall prepare and issue such detailed
30 instructions as may be required to secure the uniform observance of its
31 provisions and the maintenance of a perfect system of registration. No
32 other blanks shall be used than those supplied by the state registrar.
33 The state registrar shall carefully examine the certificates received
34 monthly from the local registrars, county auditors, and clerks of the
35 court and, if any are incomplete or unsatisfactory, the state registrar
36 shall require such further information to be furnished as may be
37 necessary to make the record complete and satisfactory, and shall cause

1 such further information to be incorporated in or attached to and filed
2 with the certificate. The state registrar shall furnish, arrange,
3 bind, and make a permanent record of the certificate in a systematic
4 manner, and shall prepare and maintain a comprehensive index of all
5 births, deaths, fetal deaths, marriages, civil unions, and decrees of
6 divorce, annulment and separate maintenance registered.

7 **Sec. 27.** RCW 70.58.005 and 1991 c 3 s 342 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Department" means the department of health.

12 (2) "Vital records" means records of birth, death, fetal death,
13 marriage, civil union, dissolution, annulment, and legal separation, as
14 maintained under the supervision of the state registrar of vital
15 statistics.

16 **Sec. 28.** RCW 70.58.104 and 1991 c 96 s 4 are each amended to read
17 as follows:

18 (1) The state registrar may prepare typewritten, photographic,
19 electronic, or other reproductions of records of birth, death, fetal
20 death, marriage, civil union, or decrees of divorce, annulment, or
21 legal separation registered under law or that portion of the record of
22 any birth which shows the child's full name, sex, date of birth, and
23 date of filing of the certificate. Such reproductions, when certified
24 by the state registrar, shall be considered for all purposes the same
25 as the original and shall be prima facie evidence of the facts stated
26 therein.

27 (2) The department may authorize by regulation the disclosure of
28 information contained in vital records for research purposes. All
29 research proposals must be submitted to the department and must be
30 reviewed and approved as to scientific merit and to ensure that
31 confidentiality safeguards are provided in accordance with department
32 policy.

33 (3) Local registrars may, upon request, furnish certified copies of
34 the records of birth, death, and fetal death, subject to all provisions
35 of state law applicable to the state registrar.

1 **Sec. 29.** RCW 70.58.107 and 1997 c 223 s 1 are each amended to read
2 as follows:

3 The department of health shall charge a fee of thirteen dollars for
4 certified copies of records and for copies or information provided for
5 research, statistical, or administrative purposes, and eight dollars
6 for a search of the files or records when no copy is made. The
7 department shall prescribe by regulation fees to be paid for preparing
8 sealed files and for opening sealed files.

9 No fee may be demanded or required for furnishing certified copies
10 of a birth, death, fetal death, marriage, civil union, divorce,
11 annulment, or legal separation record for use in connection with a
12 claim for compensation or pension pending before the veterans
13 administration.

14 The department shall keep a true and correct account of all fees
15 received and turn the fees over to the state treasurer on a weekly
16 basis.

17 Local registrars shall charge the same fees as the state as
18 hereinabove provided and as prescribed by department regulation, except
19 that local registrars shall charge thirteen dollars for the first copy
20 of a death certificate and eight dollars for each additional copy of
21 the same death certificate when the additional copies are ordered at
22 the same time as the first copy. All such fees collected, except for
23 five dollars of each fee for the issuance of a certified copy, shall be
24 paid to the jurisdictional health department.

25 All local registrars in cities and counties shall keep a true and
26 correct account of all fees received under this section for the
27 issuance of certified copies and shall turn five dollars of the fee
28 over to the state treasurer on or before the first day of January,
29 April, July, and October.

30 Five dollars of each fee imposed for the issuance of certified
31 copies, except for copies suitable for display issued under RCW
32 70.58.085, at both the state and local levels shall be held by the
33 state treasurer in the death investigations' account established by RCW
34 43.79.445.

35 **Sec. 30.** RCW 9A.64.010 and 1986 c 257 s 14 are each amended to
36 read as follows:

37 (1) A person is guilty of bigamy if he or she:

1 (a) Intentionally marries or purports to marry another person when
2 either person has a living spouse or living civil union partner; or

3 (b) Intentionally enters into a civil union or purports to enter
4 into a civil union when either person has a living civil union partner
5 or living spouse under RCW 26.04.010.

6 (2) In any prosecution under this section, it is a defense that at
7 the time of the subsequent marriage or civil union or purported
8 marriage or civil union:

9 (a) The actor reasonably believed that the prior spouse or civil
10 union partner was dead; or

11 (b) A court had entered a judgment purporting to terminate or annul
12 any prior disqualifying marriage or civil union and the actor did not
13 know that such judgment was invalid; or

14 (c) The actor reasonably believed that he or she was legally
15 eligible to marry or enter into a civil union.

16 (3) The limitation imposed by RCW 9A.04.080 on commencing a
17 prosecution for bigamy does not begin to run until the death of the
18 prior or subsequent spouse or civil union partner of the actor or until
19 a court enters a judgment terminating or annulling the prior or
20 subsequent marriage or civil union.

21 (4) Bigamy is a class C felony.

22 NEW SECTION. **Sec. 31.** Sections 1 through 21 of this act
23 constitute a new chapter in Title 26 RCW.

--- END ---