
SENATE BILL 6014

State of Washington

58th Legislature

2003 Regular Session

By Senators Thibaudeau, Kohl-Welles, Fairley, Regala, Kline, B. Sheldon and McAuliffe

Read first time 03/03/2003. 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,"

1 "next of kin," and other terms that denote the spousal relationship, as
2 those terms are used throughout the law.

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

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

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

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

19 NEW SECTION. **Sec. 5.** The family court has jurisdiction over all
20 proceedings relating to the dissolution of civil unions. The
21 dissolution of civil unions shall follow the same procedures and are
22 subject to the same substantive rights and obligations that are
23 involved in the dissolution of marriage in accordance with chapter
24 26.09 RCW, including child support, parenting plans, property division,
25 and maintenance.

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

33 NEW SECTION. **Sec. 7.** A civil union certified by any person who
34 falsely professes to be a judicial officer or a minister or priest of
35 any religious denomination in this state or who falsely professes to be

1 an authorized officer thereof, is valid if the civil union is otherwise
2 valid and was entered into with a belief on the part of either party
3 that he or she has been lawfully joined in a civil union.

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

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

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

21 STATE OF WASHINGTON }
22 }
23 COUNTY OF }

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

32 In Testimony Whereof, witness the signatures of the parties to the

1 ceremony, the witnesses and myself, this day of ,
2 A.D., 20. . .

3 The certificate form for the files of the state registrar of vital
4 statistics shall be the Washington department of health marriage
5 certificate form. The certificate forms for the files of the county
6 auditor and for the files of the state registrar of vital statistics
7 shall be provided by the state registrar of vital statistics.

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

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

21 NEW SECTION. **Sec. 12.** (1) Before any persons may enter into a
22 civil union, they must obtain a civil union license from the county
23 auditor, upon payment of a civil union license fee as fixed in RCW
24 36.18.010.

25 A person may secure by mail an application for a civil union
26 license from the county auditor of the county where the person intends
27 to enter into a civil union, and execute and acknowledge the
28 application before a notary public.

29 Application for a civil union license must be made and filed with
30 the appropriate county auditor upon blanks to be provided by the county
31 auditor for that purpose. The application shall be under the oath of
32 each of the applicants, and each application shall state the name,
33 address at the time of execution of application, age, social security
34 number, birthplace, whether single, widowed, or divorced, whether under
35 the control of a guardian, and residence during the past six months.

1 Each county may require such other information on the application as it
2 deems necessary.

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

6 NEW SECTION. **Sec. 13.** In addition to the application provided for
7 in section 12 of this act, the county auditor for the county wherein
8 the license is issued shall submit to each applicant at the time of
9 application for a license the Washington state department of health
10 civil union certificate form to be completed by the applicants and
11 returned to the county auditor for the files of the state registrar of
12 vital statistics. After the execution of the application for, and the
13 issuance of a license, no county shall require the persons authorized
14 to certify civil unions to obtain any further information from the
15 persons entering into the civil union except the names and county of
16 residence of the parties.

17 NEW SECTION. **Sec. 14.** The county auditor may issue the civil
18 union license at the time of application, but shall issue the license
19 no later than the third full day following the date of the application.
20 A civil union license issued according to the provisions of this
21 chapter may not be used until three days after the date of application
22 and becomes void if the civil union is not certified within sixty days
23 of the date of the issuance of the license. The county auditor shall
24 notify the applicant in writing of this requirement at the time of
25 issuance of the license.

26 NEW SECTION. **Sec. 15.** A county auditor is authorized to refuse to
27 issue a license to enter into a civil union if the applications
28 executed by the parties or information coming to the county auditor's
29 knowledge as a result of the execution of the applications justifies
30 the refusal. A party who is denied a license may appeal to the
31 superior court of the county for an order to show cause, directed to
32 the county auditor, to appear before the court to show why the court
33 should not grant an order to issue a license to the denied party.
34 After a hearing, or if the auditor fails to appear, the court may in

1 its discretion issue an order to the auditor directing him or her to
2 issue the license. Hearings held by a superior court may, in the
3 discretion of the court, be held in chambers.

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

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

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

17 (a) If requested by a law enforcement agency, to the law
18 enforcement agency; and

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

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

24 NEW SECTION. **Sec. 18.** (1) The county auditor, before a civil
25 union license is issued, shall require each applicant to make and file
26 in the auditor's office upon blanks to be provided by the county for
27 that purpose, an affidavit showing that, if an applicant has a
28 contagious sexually transmitted disease, the condition is known to both
29 applicants. In addition, the affidavit shall state that the applicants
30 are each eighteen years of age or older. If written consent is
31 obtained of the father, mother, or legal guardian of the person for
32 whom the license is required, the license may be granted in cases where
33 a party has attained the age of seventeen years. The affidavit may be
34 subscribed and sworn to before any person authorized to administer

1 oaths. Anyone knowingly swearing falsely to any of the statements
2 contained in the affidavit is guilty of perjury.

3 (2) The affidavit form shall be designed to require a statement
4 that no contagious sexually transmitted disease is present or that the
5 condition is known to both applicants, without requiring the applicants
6 to state whether or not either or both of them has a sexually
7 transmitted disease.

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

13 NEW SECTION. **Sec. 19.** The county auditor who issues the civil
14 union license, before delivering it, shall enter in the civil union
15 record a memorandum of the names of the parties, the consent of the
16 parents or guardian, if required, and the name of the affiant and the
17 substance of the affidavit upon which the license issued, and the date
18 of the license.

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

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

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

- 31 (1) Marriages in the following cases are prohibited:
32 (a) When either party thereto has a wife (~~(or)~~), husband, or civil
33 union partner living at the time of such marriage;

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

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

5 (2) It is unlawful for any man to marry his father's sister,
6 mother's sister, daughter, sister, son's daughter, daughter's daughter,
7 brother's daughter or sister's daughter; it is unlawful for any woman
8 to marry her father's brother, mother's brother, son, brother, son's
9 son, daughter's son, brother's son or sister's son.

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

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

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

21 (2) In addition to any other funds used therefor, the governing
22 body of any county shall use the proceeds from the fee increase
23 authorized by this section to pay the expenses of the family court and
24 the family court services under chapter 26.12 RCW. If there is no
25 family court in the county, the legislative authority may provide such
26 services through other county agencies or may contract with a public or
27 private agency or person to provide such services. Family court
28 services also may be provided jointly with other counties as provided
29 in RCW 26.12.230.

30 (3) The family court services program may hire professional
31 employees to provide the investigation, evaluation and reporting, and
32 mediation services, or the county may contract for these services, or
33 both. To facilitate and promote the purposes of this chapter, the
34 court may order or recommend the aid of physicians, psychiatrists, or
35 other specialists.

36 (4) The family court services program may provide or contract for:
37 (a) Mediation; (b) investigation, evaluation, and reporting to the

1 court; and (c) reconciliation; and may provide a referral mechanism for
2 drug and alcohol testing, monitoring, and treatment; and any other
3 treatment, parenting, or anger management programs the family court
4 professional considers necessary or appropriate.

5 (5) Services other than family court investigation, evaluation,
6 reconciliation, and mediation services shall be at the expense of the
7 parties involved absent a court order to the contrary. The parties
8 shall bear all or a portion of the cost of parenting seminars and
9 family court investigation, evaluation, reconciliation, and mediation
10 services according to the parties' ability to pay.

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

15 (7) The legislative authority may establish fees for family court
16 investigation, evaluation, reconciliation, and mediation services under
17 this chapter according to the parties' ability to pay for the services.
18 Fees collected under this section shall be collected and deposited in
19 the same manner as other county funds are collected and deposited, and
20 shall be maintained in a separate account to be used as provided in
21 this section.

22 **Sec. 24.** RCW 36.18.010 and 2002 c 294 s 3 are each amended to read
23 as follows:

24 County auditors or recording officers shall collect the following
25 fees for their official services:

26 For recording instruments, for the first page eight and one-half by
27 fourteen inches or less, five dollars; for each additional page eight
28 and one-half by fourteen inches or less, one dollar. The fee for
29 recording multiple transactions contained in one instrument will be
30 calculated for each transaction requiring separate indexing as required
31 under RCW 65.04.050 as follows: The fee for each title or transaction
32 is the same fee as the first page of any additional recorded document;
33 the fee for additional pages is the same fee as for any additional
34 pages for any recorded document; the fee for the additional pages may
35 be collected only once and may not be collected for each title or
36 transaction;

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

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

6 For administering an oath or taking an affidavit, with or without
7 seal, two dollars;

8 For issuing a marriage license or civil union license, eight
9 dollars, (this fee includes taking necessary affidavits, filing
10 returns, indexing, and transmittal of a record of the marriage or civil
11 union to the state registrar of vital statistics) plus an additional
12 five-dollar fee for use and support of the prevention of child abuse
13 and neglect activities to be transmitted monthly to the state treasurer
14 and deposited in the state general fund plus an additional ten-dollar
15 fee to be transmitted monthly to the state treasurer and deposited in
16 the state general fund. The legislature intends to appropriate an
17 amount at least equal to the revenue generated by this fee for the
18 purposes of the displaced homemaker act, chapter 28B.04 RCW;

19 For searching records per hour, eight dollars;

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

24 For recording of miscellaneous records not listed above, for the
25 first page eight and one-half by fourteen inches or less, five dollars;
26 for each additional page eight and one-half by fourteen inches or less,
27 one dollar;

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

30 For recording an emergency nonstandard document as provided in RCW
31 65.04.047, fifty dollars, in addition to all other applicable recording
32 fees.

33 For recording instruments, a surcharge as provided in RCW
34 36.22.178.

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

37 The secretary of health shall have charge of the state system of

1 registration of births, deaths, fetal deaths, marriages, civil unions,
2 and decrees of divorce, annulment and separate maintenance, and shall
3 prepare the necessary rules, forms, and blanks for obtaining records,
4 and insure the faithful registration thereof.

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

7 The state registrar of vital statistics shall prepare, print, and
8 supply to all registrars all blanks and forms used in registering,
9 recording, and preserving the returns, or in otherwise carrying out the
10 purposes of Title 70 RCW; and shall prepare and issue such detailed
11 instructions as may be required to secure the uniform observance of its
12 provisions and the maintenance of a perfect system of registration. No
13 other blanks shall be used than those supplied by the state registrar.
14 The state registrar shall carefully examine the certificates received
15 monthly from the local registrars, county auditors, and clerks of the
16 court and, if any are incomplete or unsatisfactory, the state registrar
17 shall require such further information to be furnished as may be
18 necessary to make the record complete and satisfactory, and shall cause
19 such further information to be incorporated in or attached to and filed
20 with the certificate. The state registrar shall furnish, arrange,
21 bind, and make a permanent record of the certificate in a systematic
22 manner, and shall prepare and maintain a comprehensive index of all
23 births, deaths, fetal deaths, marriages, civil unions, and decrees of
24 divorce, annulment and separate maintenance registered.

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

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

- 29 (1) "Department" means the department of health.
- 30 (2) "Vital records" means records of birth, death, fetal death,
31 marriage, civil union, dissolution, annulment, and legal separation, as
32 maintained under the supervision of the state registrar of vital
33 statistics.

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

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

10 (2) The department may authorize by regulation the disclosure of
11 information contained in vital records for research purposes. All
12 research proposals must be submitted to the department and must be
13 reviewed and approved as to scientific merit and to ensure that
14 confidentiality safeguards are provided in accordance with department
15 policy.

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

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

21 The department of health shall charge a fee of thirteen dollars for
22 certified copies of records and for copies or information provided for
23 research, statistical, or administrative purposes, and eight dollars
24 for a search of the files or records when no copy is made. The
25 department shall prescribe by regulation fees to be paid for preparing
26 sealed files and for opening sealed files.

27 No fee may be demanded or required for furnishing certified copies
28 of a birth, death, fetal death, marriage, civil union, divorce,
29 annulment, or legal separation record for use in connection with a
30 claim for compensation or pension pending before the veterans
31 administration.

32 The department shall keep a true and correct account of all fees
33 received and turn the fees over to the state treasurer on a weekly
34 basis.

35 Local registrars shall charge the same fees as the state as
36 hereinabove provided and as prescribed by department regulation, except
37 that local registrars shall charge thirteen dollars for the first copy

1 of a death certificate and eight dollars for each additional copy of
2 the same death certificate when the additional copies are ordered at
3 the same time as the first copy. All such fees collected, except for
4 five dollars of each fee for the issuance of a certified copy, shall be
5 paid to the jurisdictional health department.

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

11 Five dollars of each fee imposed for the issuance of certified
12 copies, except for copies suitable for display issued under RCW
13 70.58.085, at both the state and local levels shall be held by the
14 state treasurer in the death investigations' account established by RCW
15 43.79.445.

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

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

19 (a) Intentionally marries or purports to marry another person when
20 either person has a living spouse; or

21 (b) Intentionally enters into a civil union or purports to enter
22 into a civil union when either person has a living civil union partner.

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

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

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

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

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

1 (4) Bigamy is a class C felony.

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

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