

SSB 5336 - H AMD 684

By Representative Rodne

FAILED 4/10/2007

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

3 "NEW SECTION. **Sec. 1.** (1) The purpose of this act is to
4 extend certain rights and obligations to two adults who provide
5 mutual care and support for each other.

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

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

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

24 (5) The legislature has declared that this state has a
25 compelling state interest in reaffirming its historical commitment
26 to the institution of marriage as a union between a man and a woman
27 as husband and wife and in protecting that institution. The
28 legislature has further declared its intent to establish public
29 policy against same-sex marriage in statutory law that clearly and
30 definitively declares same-sex marriages will not be recognized in

1 Washington, even if they are made legal in other states. The
2 legislature has enacted statutory law that prohibits marriages when
3 the parties are persons other than a male and a female and provides
4 that marriages between two persons other than a male and a female
5 that are recognized as valid in another jurisdiction are not valid
6 in this state. Nothing in this act is intended to or shall be
7 construed to promote or endorse same-sex marriage or to modify or
8 supersede state law related to marriage.

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

12 (1) "Mutual beneficiaries" means two adults who meet the
13 requirements of section 3 of this act.

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

15 NEW SECTION. **Sec. 3.** Two adults are considered mutual
16 beneficiaries when the following requirements are met:

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

18 (2) Neither is married to another person or in a mutual
19 beneficiary contract with another person;

20 (3) Both are capable of consenting to the mutual beneficiary
21 contract without fraud or duress;

22 (4) They execute a mutual beneficiary contract provided by the
23 secretary; and

24 (5) They file a declaration of mutual beneficiaries with the
25 secretary.

26 NEW SECTION. **Sec. 4.** Two adults who meet the criteria in
27 section 3 (1) through (3) of this act may enter into a mutual
28 beneficiary contract and file a "declaration of mutual
29 beneficiaries" with the secretary. Upon receipt of a signed and
30 notarized declaration and the filing fee, the secretary shall
31 provide a copy of the declaration to both parties. The secretary
32 shall maintain a record of each declaration filed with the
33 secretary.

34 (1) An adult who is in a mutual beneficiary contract filed with
35 the secretary may terminate the mutual beneficiary contract by
36 filing a signed and notarized "termination of mutual beneficiary

1 contract" with the secretary and paying a filing fee. The party
2 seeking to terminate the mutual beneficiary contract must include
3 in his or her filing an affidavit stating that the other party to
4 the contract has received notice of the termination.

5 (2) Upon receipt of a signed and notarized termination of
6 mutual beneficiary contract, the filing fee, and affidavit, the
7 secretary shall provide a copy of the termination of mutual
8 beneficiary contract to each of the parties to the contract. The
9 secretary shall maintain a record of each termination of mutual
10 beneficiary contract filed with the secretary.

11 (3) The secretary shall create forms entitled "declaration of
12 mutual beneficiaries" and "termination of mutual beneficiary
13 contract," and shall make those forms available to the public.
14 The secretary shall set and collect fees for filing a declaration
15 of mutual beneficiaries and filing a termination of mutual
16 beneficiary contract. The secretary is authorized to adopt rules
17 to administer this chapter.

18 NEW SECTION. **Sec. 5.** Mutual beneficiaries shall have the
19 rights and benefits provided under this act. Nothing in this act
20 may be construed to create any rights, benefits, protections, or
21 responsibilities not specifically enumerated in this act.

22 NEW SECTION. **Sec. 6.** Persons in a domestic partnership, civil
23 union, or other relationship recognized by another state or
24 jurisdiction that confers some or all of the benefits, rights, or
25 obligations of marriage to persons who are not eligible to marry in
26 the state of Washington must otherwise qualify for a mutual
27 beneficiary contract under section 3 of this act in order to be
28 considered mutual beneficiaries.

29 NEW SECTION. **Sec. 7.** (1) A patient's mutual beneficiary shall
30 have the same rights as a family member with respect to visitation
31 of the patient in a health care facility as defined in RCW
32 48.43.005.

33 (2) Informed consent for health care for a patient may be
34 obtained from the mutual beneficiary of the patient to the same
35 extent such consent may be obtained from a patient's spouse under
36 RCW 7.70.065.

1 (3) Disclosure of health care information may be made to a
2 patient's mutual beneficiary to the same extent such disclosure is
3 authorized to a patient's family member under RCW 70.02.050.

4 (4) To the extent a mutual beneficiary is named a beneficiary
5 to nonprobate assets, RCW 11.07.010 shall apply upon the
6 termination of the mutual beneficiary contract.

7 (5) To the extent a mutual beneficiary is appointed as attorney
8 in fact in a power of attorney, RCW 11.94.080 shall apply upon the
9 termination of the mutual beneficiary contract.

10 (6) Mutual beneficiaries shall have the same rights and
11 interests regarding vested rights of placement and titles and
12 certificates of ownership to family plots as provided to spouses
13 under RCW 68.32.020, 68.32.040, 68.32.060, 68.32.110, and
14 68.32.130.

15 (7) A mutual beneficiary shall have the right to control the
16 disposition of the remains of his or her mutual beneficiary to the
17 same extent provided to spouses under RCW 68.50.160.

18 (8) A mutual beneficiary shall have the right to make an
19 anatomical gift of his or her mutual beneficiary to the same extent
20 provided to a spouse under RCW 68.50.550.

21 (9) If a mutual beneficiary dies intestate, the decedent's
22 estate shall be distributed to the surviving mutual beneficiary to
23 same extent as a spouse under RCW 11.04.015.

24 (10) If a mutual beneficiary dies intestate or if the personal
25 representative or representatives named in the will declines or is
26 unable to serve, the surviving mutual beneficiary shall be entitled
27 to serve as the personal representative to the same extent as a
28 spouse under RCW 11.28.120.

29 NEW SECTION. **Sec. 8.** Sections 2 through 7 of this act
30 constitute a new chapter in Title 26 RCW.

31 NEW SECTION. **Sec. 9.** This act may be known and cited as the
32 mutual beneficiary contract act of 2007.

33 NEW SECTION. **Sec. 10.** The secretary of state shall submit
34 this act to the people for their adoption and ratification, or
35 rejection, at the next general election to be held in this state,

1 in accordance with Article II, section 1 of the state Constitution
2 and the laws adopted to facilitate its operation."

3 Correct the title.

EFFECT: Strikes the underlying bill and creates a registry for mutual beneficiaries. To register as mutual beneficiaries, two adults must be at least 18, not be married to another or in a mutual beneficiary contract, be capable of consenting, and execute and file a mutual beneficiary contract with the Secretary of State (thus, same sex couples, different sex couples, and blood relatives may register).

Provides rights to mutual beneficiaries as provided to domestic partners in the underlying bill, except for the following rights: (a) cause of action for wrongful death of partner; (b) inclusion on death certificate; (c) PEBB benefits for state employees' same sex partners; (d) right to consent to remove human remains; (e) right to consent to dissection and autopsy, and to receive autopsy report; and (f) right of partner to be agent in power of attorney when partner is principal's physician or owner of health care facility where principal is treated.

Contains a referendum clause.