

# FINAL BILL REPORT

## 2SHB 3104

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C 6 L 08

Synopsis as Enacted

**Brief Description:** Expanding rights and responsibilities for domestic partnerships.

**Sponsors:** By House Committee on Finance (originally sponsored by Representatives Pedersen, Hankins, Moeller, Walsh, Linville, Takko, Upthegrove, Kessler, Jarrett, Ericks, Wallace, Grant, Eickmeyer, Quall, Clibborn, Dunshee, Lantz, Sullivan, Simpson, Blake, Hunter, Roberts, Rolfes, Williams, Sells, Schual-Berke, Springer, Eddy, Hunt, Hudgins, Santos, Cody, Seaquist, Fromhold, Nelson, McIntire, Chase, Hasegawa, Appleton, Darneille, Haigh, Sommers, Dickerson, Kirby, Wood, Flannigan, Conway, Goodman, Kenney, Kagi, Ormsby, Loomis, McCoy, Barlow, O'Brien, Pettigrew, Morris, Lias and VanDeWege).

**House Committee on Judiciary**

**House Committee on Finance**

**Senate Committee on Government Operations & Elections**

### **Background:**

In 2007 the Legislature created a domestic partnership registry in the Office of the Secretary of State (Secretary), specified eligibility requirements for same-sex couples and qualifying different-sex couples to register, and granted certain rights and responsibilities to registered domestic partners. Those rights and responsibilities generally involved areas of law dealing with health care decision-making; powers of attorney; and the death and burial of a domestic partner.

A state registered domestic partnership may be terminated by either party filing a signed, notarized notice of termination with the Secretary and paying a filing fee. If the notice of termination is not signed by both parties, the party seeking termination must also file an affidavit stating that service of the notice on the other party has been made.

Upon receipt of the notice of termination, filing fee, and affidavit, the Secretary must register the notice of termination and provide a certificate of termination to each party. The termination is effective 90 days after the date of filing the notice. A state registered domestic partnership is automatically terminated if either party subsequently enters into a marriage with each other or another person that is recognized as valid in this state.

### **Summary:**

Various statutory rights and responsibilities provided to spouses are extended to state registered domestic partners. The process for terminating a domestic partnership is changed. Before the effective date of the act, the Secretary must send a letter to registered domestic partners notifying them that laws affecting domestic partnerships have changed. A legal union between a same-sex couple, other than a marriage, that is created in a different state and that is

substantially equivalent to a Washington domestic partnership will be recognized in Washington.

#### Termination of Domestic Partnerships.

To terminate a domestic partnership, a domestic partner must file a petition for dissolution in superior court and follow the same procedures applicable to dissolution of marriages, unless the parties qualify to use the nonjudicial termination process. Once a month, the State Registrar of Vital Statistics must submit a list of persons who have dissolved their domestic partnerships to the Secretary.

Parties may use a nonjudicial termination process by filing a notice of termination with the Secretary if, at the time of filing the notice:

- (1) both parties want the domestic partnership to be terminated and both have signed the notice of termination;
- (2) neither party has minor children, whether born or adopted before or after the domestic partner registration and neither party is pregnant;
- (3) the domestic partnership is not more than five years in duration;
- (4) neither party has any ownership interest in real property and neither party leases a residence (except a lease of a residence occupied by either party that terminates in a year and does not include an option to buy);
- (5) there are no unpaid obligations over \$4,000 incurred by either or both parties after the domestic partnership registration, except for debts on a vehicle (this threshold amount will be adjusted for inflation every two years);
- (6) the total fair market value of community property assets, minus any encumbrances, is less than \$25,000 and neither party has separate property assets over \$25,000 (this amount will be adjusted for inflation every two years);
- (7) the parties have executed an agreement establishing the division of assets and debts and have executed any documents to effectuate the agreement; and
- (8) the parties waive any rights to maintenance by the other party.

A domestic partnership is no longer automatically terminated if the parties enter into a marriage with another person that is recognized in this state.

#### Rights and Responsibilities.

Rights and responsibilities provided to spouses in various areas of law are extended to state registered domestic partners. The amended statutes generally involve: dissolutions; community property; estate planning; taxes; court process; services to indigent veterans and other public assistance; conflicts of interest for public officials; and guardianships. The following is a list of the broad categories and a short description of some of the changes made in each category.

#### *Dissolution, Parenting Plans, and Child Support.*

- Procedures for dissolution apply to domestic partners.
- Child support, maintenance, and parenting plan obligations, and procedures for enforcing such orders, apply to domestic partners.

*Community Property and Other Property Rights.*

- Property of domestic partners are subject to community property laws.
- A domestic partner's property is obligated to family expenses and education of the children.
- The slayer statute prohibits inheritance by a domestic partner perpetrator.
- A homestead may consist of property owned by domestic partners.

*Judicial Process and Victim's Rights.*

- A domestic partner may sue on behalf of the community.
- Testimonial privilege for spouses applies to domestic partners.
- A domestic partner is a "family or household member" for purposes of the domestic violence laws.

*Taxes.*

- Property assigned from one domestic partner to another under a dissolution decree is exempt from real estate excise tax.
- Property tax deferrals for eligible persons, such as senior citizens meeting certain criteria, extend to the person's surviving domestic partner.

*Public Officials.*

- Appointed and elected officials must disclose financial affairs of their domestic partners.
- Gifts received by an elected official's domestic partner are subject to public disclosure reporting requirements.
- A domestic partner of an elected official may not be a member of the State Commission on Salaries.

*Public Assistance.*

- The Department of Social and Health Services must consider hardship to a person's domestic partner, to the same extent hardship is considered for spouses, when filing a lien against a person's property as reimbursement for receiving medical assistance.
- Domestic partners who are residents in long-term care facilities or nursing homes may share the same room under certain circumstances.
- An abused same-sex domestic partner is considered a "victim" for purposes of services provided by domestic violence shelters.

*Veterans.*

- State colleges and universities must waive tuition for domestic partners of deceased or disabled veterans if certain conditions are met.
- Services for honorably discharged indigent veterans, such as residency in a veteran's home, are available to veterans' domestic partners.

*Guardianship and Powers of Attorney.*

- Procedures under guardianship laws, such as who is entitled to notice, apply to domestic partners of incapacitated persons.

- Domestic partners may file a petition to determine the effectiveness of a power of attorney, receive an accounting, and request other information regarding the power of attorney.

*Probate and Trust Law.*

- A domestic partner not named in a will that was created before registration of the domestic partnership is an omitted domestic partner for purposes of intestate distribution.
- Letters testamentary go to the surviving domestic partner to administer community property.
- Procedures under probate involving transfer of community property apply to domestic partners.
- The court may award a certain amount from the estate to the decedent's domestic partner for purposes of family support.

Notice to Registered Domestic Partners.

Sixty days before the effective date of the act, and again 30 days before the effective date, the Secretary must send a letter to the mailing address of each registered domestic partner notifying the person that Washington's laws will change. The letter must state that persons who do not wish to be subject to the new rights and responsibilities must terminate their domestic partnership before the effective date of the act.

**Votes on Final Passage:**

House	62	32
Senate	29	20

**Effective:** June 12, 2008  
 January 1, 2009 (Section 1044)  
 July 1, 2009 (Section 1047)