

# SENATE BILL REPORT

## SB 6716

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As Reported By Senate Committee On:  
Government Operations & Elections, January 31, 2008

**Title:** An act relating to expanding rights and responsibilities of all couples recognized as domestic partners under chapter 26.60 RCW.

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

**Sponsors:** Senators Murray, Fairley, McDermott, Rockefeller, Regala, Prentice, Marr, Keiser, Kohl-Welles, Kauffman, Tom, Fraser, Kline, Hobbs, Brown, Pridemore, McAuliffe, Oemig, Shin, Spanel, Berkey, Franklin, Jacobsen, Weinstein, Eide and Kilmer.

**Brief History:**

**Committee Activity:** Government Operations & Elections: 1/29/08, 1/31/08 [DPS-WM, DNP].

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Majority Report:** That Substitute Senate Bill No. 6716 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; Kline, McDermott and Pridemore.

**Minority Report:** Do not pass.

Signed by Senators Roach, Ranking Minority Member; Benton and Swecker.

**Staff:** Sharon Swanson (786-7447)

**Background:** The issue of rights for domestic partners has been addressed by some cities and other states. At least three states have statewide domestic partnership laws that provide some of the same rights to domestic partners as are provided to spouses. A number of state laws provide automatic rights and powers to spouses.

In 2007 the Washington State Legislature passed SSB 5336, creating the state domestic partnership registry. The legislation allows individuals to enter into a state registered domestic partnership so long as the individuals meet established criteria. Certain powers and rights granted to spouses were granted to domestic partners, such as health care facility visitation rights, ability to grant informed consent for health care for a patient who is not competent, title and rights to cemetery plots, and automatic termination of power of attorney upon termination of the partnership.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Since the legislation was enacted into law, approximately 3245 couples have registered as domestic partners, according to the Secretary of State.

**Summary of Bill (Recommended Substitute): Public Officials.** 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 (DSHS) must consider hardship to a person's domestic partner when filing a lien against the 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. An abused same-sex domestic partner is considered a "victim" for purposes of services provided by state-funded domestic violence shelters.

Judicial Process and Victim's Rights. Contributory fault of a domestic partner is not imputed to the other domestic partner in civil actions. Testimonial privilege applies to domestic partners. Domestic partners are family for purposes of victim's rights in the judicial process.

Veterans. State colleges and universities may grant tuition waivers for veterans' domestic partners. Relief programs for indigent veterans and their families include veterans' domestic partners.

Community Property and Other Property Rights. Community property statutes apply to domestic partners. The nature of the property is determined by how the property would have been characterized at the time the domestic partners registered. A domestic partner's property is obligated to family expenses and education of their children. The slayer statute prohibits inheritance by a domestic partner perpetrator.

Taxes. Property assigned from one domestic partner to another under 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.

Guardianship and Powers of Attorney. Procedures, including notice provisions, apply to domestic partners of incapacitated persons. A domestic partner may file a petition to determine whether a power of attorney is in effect and may receive an accounting by an attorney-in-fact.

Probate and Trust Law. A domestic partner not named in a will that has been made prior to registration of the domestic partnership is an omitted domestic partner for purposes of intestate distribution. Testamentary letters go to surviving domestic partners to administer community property. Marital deduction for trust must provide domestic partner with sufficient income. A marital deduction applies to a trust if intended by the governing instrument.

Dissolution, Parenting Plans, Child Support. Domestic partnerships must be terminated either by dissolution proceedings in court, or under limited circumstances (no minor children, no interest in real property or unpaid debts, and an agreement as to how to divide assets and liabilities), certification through the Secretary of State's office. Child support, maintenance, and parenting plan obligations apply to domestic partners.

Other. Domestic partnerships and civil unions from other states in which the parties meet the requirements of Washington's domestic partnerships are recognized in this state as domestic partnerships. The Secretary of State must send notices to registered domestic partners informing them of the change in the law.

**EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & ELECTIONS COMMITTEE (Recommended Substitute):** The definition of cohabitant is clarified for the purposes of providing domestic violence shelter services. A requirement is added that when filing a petition for dissolution, the parties must list the date of registration and place of residence when the domestic partnership was registered. Language is added to require the state registrar of vital statistics to prepare a list of persons for whom a certificate of dissolution of domestic partnership was transmitted and supply that list to the Secretary of State once per month. Reciprocity language is changed to provide that a legal union, other than a marriage, from another state that is substantially equivalent to a Washington domestic partnership must be recognized in this state regardless of whether it is called a domestic partnership.

**Appropriation:** None.

**Fiscal Note:** Requested on January 24, 2008.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill is about equality and the protection of families. My partner and I both work, pay our taxes, take care of our families, belong to a church, and participate in our community. Why is that considered abnormal? Let's treat each other with dignity even though we may disagree. I am a veteran of the United States Navy for a total of five years. I was honorably discharged from the Navy and yet my domestic partner cannot receive the benefits of my service that an opposite sex partner would. The state of Washington does not recognize my family. I served my country and I risked my life to defend my country. Washington's noble aspiration to honor veterans should apply to all veterans. I am treated like a second class family and my family is not recognized by my government or my state. I have built a life with my same sex partner, we own a home together, we have raised a child together but once I become ill or if I die my partner has no rights. My partner and I have been together for 18 years and we have two children together. I am a police officer and I put my life on the line daily to protect others. My family and I do not have the same rights as other families in my community. If I were to die in the line of duty my family would not be treated the same as the families of my fellow officers. This brings a sense of instability to my family. Why should my family be treated differently? There are so many rights and privileges that we cannot obtain by contract. Gay and lesbian families need structure for their lives together and for the times when their families break up. There are no rules and no laws to guide gay and lesbian families through the process of breaking up. The children of gay and lesbian families need the protection, security, and predictability that family laws can provide. There needs to be a degree of certainty for all families. This bill stands on the side of loyalty and relationships. I am in a registered domestic partnership and I am a senior citizen. The state can force the sale of a home that a same sex couple has owned jointly to recoup the costs of long-term care. A person who must face the devastating loss of his or her partner must also face the loss of their

home. We must guarantee equality to same sex domestic partners. Please stand on the side of love and commitment.

CON: The Catholic Church steadfastly holds that marriage is a union between one man and one woman and we support the Defense of Marriage Act. This legislation is intended to extend marriage rights to gay couples and to attempt to change the definition of marriage to allow gay couples to marry. Marriage between a man and a woman is the cornerstone of our society. This bill is destructive to traditional marriage. Marriage laws are designed to promote procreation and to promote stable families and a stable society. Elevating domestic partnerships to the same status as marriage will weaken the institution of marriage. While the homosexual agenda may be fashionable for some it is opposed by the majority of Washington citizens. At the very least this issue should be put to the people for a vote. The behavior is wrong, not the person. This is a movement towards same sex marriage. The majority of people in the state of Washington do not support same sex marriage. We should not move towards normalizing same sex marriage.

**Persons Testifying:** PRO: Leah D. Schulz, citizen; Carol McKinley, Washington State Unitarian Universalist Voices for Justice; Andrew Kamens, citizen; Mark Andersen, citizen; Judy Fleissner, citizen; Brenda Williams, Washington State Federation of State Employees.

CON: Antonio Cube, Washington State Catholic Conference; Yoshe Reuelle, citizen; Bob Higley, citizen; Arne Walker, Family Policy Institute of Washington.