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HOUSE BILL 1350

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Pedersen, McDermott, Upthegrove, Moeller, Darneille, Williams, Hasegawa, Dickerson, Hunt, Schual-Berke, Kenney, Sommers, McIntire, Ormsby, Sells, Flannigan, Santos, Appleton, Chase, Cody, Hudgins, Pettigrew, Wood, Kagi, Morris and Roberts

Read first time 01/17/2007. Referred to Committee on Judiciary.

1            AN ACT Relating to civil marriage equality, recognizing the right  
2 of all citizens of Washington state, including couples of the same sex,  
3 to obtain civil marriage licenses; amending RCW 26.04.010 and  
4 26.04.020; and creating a new section.

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

6            NEW SECTION.    **Sec. 1.** (1) Civil marriage is a legal institution  
7 recognized by the state in order to promote stable relationships and to  
8 protect individuals who are in those relationships. Civil marriage is  
9 based on a civil contract between two persons and does not require the  
10 sanction or involvement of religious institutions. Civil marriage  
11 provides important protections for the families of those who are  
12 married, including not only children and other dependents they may  
13 have, but also members of their extended families. The legislature and  
14 the people of the state of Washington find that strong, healthy  
15 families promote social stability and economic growth, and that these  
16 families are supported and protected by the mutual obligations and  
17 benefits conferred by civil marriage licenses. On these bases, the  
18 state therefore has a strong interest in ending discrimination against

1 otherwise qualified applicants for a civil marriage license, including  
2 discrimination on the basis of sex or sexual orientation of the  
3 applicants.

4 (2) The legislature finds and declares as follows:

5 (a) Despite longstanding social and economic discrimination, many  
6 gay and lesbian Washingtonians have formed lasting, committed, caring,  
7 and mutually supportive relationships with persons of their same sex.  
8 These couples live together, participate in their communities together,  
9 and many raise children and care for family members together, just as  
10 do heterosexual couples who have the option to marry under Washington  
11 law.

12 (b) The state of Washington has a proud tradition of respect for  
13 the principle that no human being should be denied his or her full  
14 rights and responsibilities under the law.

15 (c) According to the 2000 census, Washington state is home to at  
16 least sixteen thousand same sex couples, ranking ninth among the fifty  
17 states in the number of same sex couples. Same sex couples live in all  
18 thirty-nine counties in Washington, and nearly one in four of these  
19 couples is raising children. While some of these couples may have  
20 domestic partner registries in their jurisdictions, such arrangements  
21 do not offer the same scope and depth of rights, responsibilities,  
22 privileges, and protections offered by civil marriages, nor do they  
23 provide any legal standing outside the jurisdiction in which they  
24 occur.

25 (d) Marriage laws support the core values of commitment and  
26 responsibility. Washington's discriminatory exclusion of same sex  
27 couples from marriage harms those couples and their families by denying  
28 those couples and their families specific and equal rights and  
29 responsibilities under state and federal law. At least four hundred  
30 twenty-three Washington state statutes confer rights, benefits, or  
31 obligations depending upon marital status, nearly all of which are  
32 currently unavailable to Washington's same sex couples. These include  
33 the right to bring a wrongful death action, the right to inherit  
34 property when there is no will, the right to invoke the evidentiary  
35 privilege not to testify against a spouse, the right to certain  
36 employment and pension benefits as well as other specific benefits, and  
37 the right to transfer property between spouses without paying the real  
38 estate excise tax.

1 (e) Washington's discriminatory exclusion of same sex couples from  
2 marriage further harms same sex couples and their families by denying  
3 them the unique public recognition and affirmation that civil marriage  
4 confers on other couples, and the opportunity to express their mutual  
5 dedication through the uniquely recognized rituals of marriage.

6 (f) The legislature has an interest in encouraging and supporting  
7 loving, stable, committed, caregiving relationships regardless of the  
8 sex or sexual orientation of the partners. The benefits that accrue to  
9 the general community and to the state's economy when couples undertake  
10 the mutual obligations of marriage accrue regardless of the sex or  
11 sexual orientation of the partners.

12 (g) No official of any religious denomination or nonprofit  
13 institution authorized to solemnize marriages shall be required to  
14 solemnize any marriage in violation of his or her right to free  
15 exercise of religion guaranteed by the First Amendment to the United  
16 States Constitution or by the Washington state Constitution.

17 (h) It is the intent of this act to end discrimination in marriage  
18 based on sex and sexual orientation in Washington, to ensure that all  
19 persons in this state may enjoy the freedom to marry on equal terms,  
20 while also respecting the religious freedom rights of clergy and  
21 religious institutions to determine for whom to perform marriage  
22 ceremonies and which marriages to recognize for religious purposes.

23 **Sec. 2.** RCW 26.04.010 and 1998 c 1 s 3 are each amended to read as  
24 follows:

25 (1) Marriage is a civil contract between (~~a male and a female~~)  
26 two persons who have each attained the age of eighteen years, and who  
27 are otherwise capable.

28 (2) Every marriage entered into in which either (~~the husband or~~  
29 ~~the wife~~) person has not attained the age of seventeen years is void  
30 except where this section has been waived by a superior court judge of  
31 the county in which one of the parties resides on a showing of  
32 necessity.

33 (3) Where necessary to implement the rights and responsibilities of  
34 spouses under the law, gender specific terms such as husband and wife  
35 shall be construed to be gender neutral.

1       **Sec. 3.** RCW 26.04.020 and 1998 c 1 s 4 are each amended to read as  
2 follows:

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

4       (a) When either party thereto has a (~~wife or husband~~) spouse  
5 living at the time of such marriage; or

6       (b) When the (~~husband and wife~~) spouses are nearer of kin to each  
7 other than second cousins, whether of the whole or half blood computing  
8 by the rules of the civil law(~~;~~ ~~or~~

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

10       (2) It is unlawful for (~~any man~~) a person to marry his (~~father's~~  
11 ~~sister, mother's sister, daughter, sister, son's daughter, daughter's~~  
12 ~~daughter, brother's daughter or sister's daughter; it is unlawful for~~  
13 ~~any woman to marry her father's brother, mother's brother, son,~~  
14 ~~brother, son's son, daughter's son, brother's son or sister's son)) or  
15 her sibling, child, grandchild, aunt, uncle, niece, or nephew.~~

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

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