
SUBSTITUTE HOUSE BILL 1351

State of Washington 60th Legislature 2007 Regular Session

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

READ FIRST TIME 02/09/07.

1 AN ACT Relating to protecting individuals in domestic partnerships
2 by granting certain rights and benefits; amending RCW 41.05.065,
3 7.70.065, 70.02.050, 11.07.010, 11.94.080, 68.32.020, 68.32.030,
4 68.32.040, 68.32.060, 68.32.110, 68.32.130, 68.50.100, 68.50.101,
5 68.50.105, 68.50.160, 68.50.200, 68.50.550, 11.04.015, 11.28.120,
6 4.20.020, 4.20.060, and 11.94.010; adding a new section to chapter
7 43.07 RCW; adding a new section to chapter 41.05 RCW; adding a new
8 section to chapter 70.58 RCW; and adding a new chapter to Title 26 RCW.

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

10 NEW SECTION. **Sec. 1.** Many Washingtonians are in intimate,
11 committed, and exclusive relationships with another person to whom they
12 are not legally married. These relationships are important to the
13 individuals involved and their families; they also benefit the public
14 by providing a private source of mutual support for the financial,
15 physical, and emotional health of those individuals and their families.
16 The public has an interest in providing a legal framework for such
17 mutually supportive relationships, whether the partners are of the same
18 or different sexes, and irrespective of their sexual orientation.

1 The legislature finds that same sex couples, because they cannot
2 marry in this state, do not automatically have the same access that
3 married couples have to certain rights and benefits, such as those
4 associated with hospital visitation, health care decision-making, organ
5 donation decisions, and other issues related to illness, incapacity,
6 and death. Although many of these rights and benefits may be secured
7 by private agreement, doing so often is costly and complex.

8 The legislature also finds that the public interest would be served
9 by extending rights and benefits to different sex couples in which
10 either or both of the partners is at least sixty-two years of age.
11 While these couples are entitled to marry under the state's marriage
12 statutes, some social security and pension laws nevertheless make it
13 impractical for these couples to marry. For this reason, this act
14 specifically allows couples to enter into a state registered domestic
15 partnership if one of the persons is at least sixty-two years of age,
16 the age at which many people choose to retire and are eligible to begin
17 collecting social security and pension benefits.

18 The rights granted to state registered domestic partners in this
19 act will further Washington's interest in promoting family
20 relationships and protecting family members during life crises. This
21 act does not affect marriage or any other ways in which legal rights
22 and responsibilities between two adults may be created, recognized, or
23 given effect in Washington.

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

26 (1) "State registered domestic partners" means two adults who meet
27 the requirements for a valid state registered domestic partnership as
28 established by section 4 of this act and who have been issued a
29 certificate of state registered domestic partnership by the secretary.

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

31 (3) "Share a common residence" means inhabit the same residence.
32 Two persons shall be considered to share a common residence even if:

33 (a) Only one of the domestic partners has legal ownership of the
34 common residence;

35 (b) One or both domestic partners have additional residences not
36 shared with the other domestic partner; or

1 (c) One domestic partner leaves the common residence with the
2 intent to return.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.07 RCW
4 to read as follows:

5 (1) The state domestic partnership registry is created within the
6 secretary of state's office.

7 (2)(a) The secretary shall prepare forms entitled "declaration of
8 state registered domestic partnership" and "notice of termination of
9 state registered domestic partnership" to meet the requirements of
10 sections 1, 2, 4, and 8 of this act.

11 (b) The "declaration of state registered domestic partnership" form
12 must contain a statement that registration may affect property and
13 inheritance rights, that registration is not a substitute for a will,
14 deed, or partnership agreement, and that any rights conferred by
15 registration may be completely superseded by a will, deed, or other
16 instrument that may be executed by either party. The form must also
17 contain instructions on how the partnership may be terminated.

18 (c) The "notice of termination of state registered domestic
19 partnership" form must contain a statement that termination may affect
20 property and inheritance rights, including beneficiary designations,
21 and other agreements, such as the appointment of a state registered
22 domestic partner as an attorney in fact under a power of attorney.

23 (3) The secretary shall distribute these forms to each county
24 clerk. These forms shall be available to the public at the secretary
25 of state's office, each county clerk, and on the internet.

26 (4) The secretary shall adopt rules necessary to implement the
27 administration of the state domestic partnership registry.

28 NEW SECTION. **Sec. 4.** To enter into a state registered domestic
29 partnership the two persons involved must meet the following
30 requirements:

- 31 (1) Both persons share a common residence;
- 32 (2) Both persons are at least eighteen years of age;
- 33 (3) Neither person is married to someone other than the party to
34 the domestic partnership and neither person is in a state registered
35 domestic partnership with another person;

1 (4) Both persons are capable of consenting to the domestic
2 partnership;

3 (5) Both of the following are true:

4 (a) The persons are not nearer of kin to each other than second
5 cousins, whether of the whole or half blood computing by the rules of
6 the civil law; and

7 (b) Neither person is a sibling, child, grandchild, aunt, uncle,
8 niece, or nephew to the other person; and

9 (6) Either (a) both persons are members of the same sex; or (b) at
10 least one of the persons is sixty-two years of age or older.

11 NEW SECTION. **Sec. 5.** (1) Two persons desiring to become state
12 registered domestic partners who meet the requirements of section 4 of
13 this act may register their domestic partnership by filing a
14 declaration of state registered domestic partnership with the secretary
15 and paying the filing fee established pursuant to subsection (4) of
16 this section. The declaration must be signed by both parties and
17 notarized.

18 (2) Upon receipt of a signed, notarized declaration and the filing
19 fee, the secretary shall register the declaration and provide a
20 certificate of state registered domestic partnership to each party
21 named on the declaration.

22 (3) The secretary shall permanently maintain a record of each
23 declaration of state registered domestic partnership filed with the
24 secretary. The secretary shall provide the state registrar of vital
25 statistics with records of declarations of state registered domestic
26 partnerships.

27 (4) The secretary shall set by rule and collect a reasonable fee
28 for filing the declaration, calculated to cover the secretary's costs,
29 but not to exceed fifty dollars. Fees collected under this section are
30 expressly designated for deposit in the secretary of state's revolving
31 fund established under RCW 43.07.130.

32 NEW SECTION. **Sec. 6.** (1)(a) A party to a state registered
33 domestic partnership may terminate the relationship by filing a notice
34 of termination of the state registered domestic partnership with the
35 secretary and paying the filing fee established pursuant to subsection
36 (5) of this section. The notice must be signed by one or both parties

1 and notarized. If the notice is not signed by both parties, the party
2 seeking termination must also file with the secretary an affidavit
3 stating either that the other party has been served in writing in the
4 manner prescribed for the service of summons in a civil action, that a
5 notice of termination is being filed or that the party seeking
6 termination has not been able to find the other party after reasonable
7 effort and that notice has been made by publication pursuant to (b) of
8 this subsection.

9 (b) When the other party cannot be found after reasonable effort,
10 the party seeking termination may provide notice by publication in a
11 newspaper of general circulation in the county in which the residence
12 most recently shared by the domestic partners is located. Notice must
13 be published at least once.

14 (2) The state registered domestic partnership shall be terminated
15 effective ninety days after the date of filing the notice of
16 termination and payment of the filing fee.

17 (3) Upon receipt of a signed, notarized notice of termination,
18 affidavit, if required, and the filing fee, the secretary shall
19 register the notice of termination and provide a certificate of
20 termination of the state registered domestic partnership to each party
21 named on the notice. The secretary shall maintain a record of each
22 notice of termination filed with the secretary and each certificate of
23 termination issued by the secretary. The secretary shall provide the
24 state registrar of vital statistics with records of terminations of
25 state registered domestic partnerships, except for those state
26 registered domestic partnerships terminated under subsection (4) of
27 this section.

28 (4) A state registered domestic partnership is automatically
29 terminated if, subsequent to the registration of the domestic
30 partnership with the secretary, either or both the parties enter into
31 a marriage that is recognized as valid in this state, either with each
32 other or with another person.

33 (5) The secretary shall set by rule and collect a reasonable fee
34 for filing the declaration, calculated to cover the secretary's costs,
35 but not to exceed fifty dollars. Fees collected under this section are
36 expressly designated for deposit in the secretary of state's revolving
37 fund established under RCW 43.07.130.

1 NEW SECTION. **Sec. 7.** (1)(a) A domestic partnership created by a
2 subdivision of the state is not a state registered domestic partnership
3 for the purposes of a state registered domestic partnership under this
4 chapter. Those persons desiring to become state registered domestic
5 partners under this chapter must register pursuant to section 5 of this
6 act.

7 (b) A subdivision of the state that provides benefits to the
8 domestic partners of its employees and chooses to use the definition of
9 state registered domestic partner as set forth in section 2 of this act
10 must allow the certificate issued by the secretary of state to satisfy
11 any registration requirements of the subdivision. A subdivision that
12 uses the definition of state registered domestic partner as set forth
13 in section 2 of this act shall notify the secretary of state. The
14 secretary of state shall compile and maintain a list of all
15 subdivisions that have filed such notice. The secretary of state shall
16 post this list on the secretary's web page and provide a copy of the
17 list to each person that receives a certificate of state registered
18 domestic partnership under section 5(2) of this act.

19 (c) Nothing in this section shall affect domestic partnerships
20 created by any public entity.

21 (2) Nothing in this act affects any remedy available in common law.

22 NEW SECTION. **Sec. 8.** A patient's state registered domestic
23 partner shall have the same rights as a spouse with respect to
24 visitation of the patient in a health care facility as defined in RCW
25 48.43.005.

26 NEW SECTION. **Sec. 9.** A new section is added to chapter 41.05 RCW
27 to read as follows:

28 A certificate of domestic partnership issued to a couple of the
29 same sex under the provisions of section 4 of this act shall be
30 recognized as evidence of a qualified same sex domestic partnership
31 fulfilling all necessary eligibility criteria for the partner of the
32 employee to receive benefits. Nothing in this section affects the
33 requirements of same sex domestic partners to complete documentation
34 related to federal tax status that may currently be required by the
35 board for employees choosing to make premium payments on a pretax
36 basis.

1 **Sec. 10.** RCW 41.05.065 and 2006 c 299 s 2 are each amended to read
2 as follows:

3 (1) The board shall study all matters connected with the provision
4 of health care coverage, life insurance, liability insurance,
5 accidental death and dismemberment insurance, and disability income
6 insurance or any of, or a combination of, the enumerated types of
7 insurance for employees and their dependents on the best basis possible
8 with relation both to the welfare of the employees and to the state.
9 However, liability insurance shall not be made available to dependents.

10 (2) The board shall develop employee benefit plans that include
11 comprehensive health care benefits for all employees. In developing
12 these plans, the board shall consider the following elements:

13 (a) Methods of maximizing cost containment while ensuring access to
14 quality health care;

15 (b) Development of provider arrangements that encourage cost
16 containment and ensure access to quality care, including but not
17 limited to prepaid delivery systems and prospective payment methods;

18 (c) Wellness incentives that focus on proven strategies, such as
19 smoking cessation, injury and accident prevention, reduction of alcohol
20 misuse, appropriate weight reduction, exercise, automobile and
21 motorcycle safety, blood cholesterol reduction, and nutrition
22 education;

23 (d) Utilization review procedures including, but not limited to a
24 cost-efficient method for prior authorization of services, hospital
25 inpatient length of stay review, requirements for use of outpatient
26 surgeries and second opinions for surgeries, review of invoices or
27 claims submitted by service providers, and performance audit of
28 providers;

29 (e) Effective coordination of benefits;

30 (f) Minimum standards for insuring entities; and

31 (g) Minimum scope and content of public employee benefit plans to
32 be offered to enrollees participating in the employee health benefit
33 plans. To maintain the comprehensive nature of employee health care
34 benefits, employee eligibility criteria related to the number of hours
35 worked and the benefits provided to employees shall be substantially
36 equivalent to the state employees' health benefits plan and eligibility
37 criteria in effect on January 1, 1993. Nothing in this subsection
38 (2)(g) shall prohibit changes or increases in employee point-of-service

1 payments or employee premium payments for benefits or the
2 administration of a high deductible health plan in conjunction with a
3 health savings account.

4 (3) The board shall design benefits and determine the terms and
5 conditions of employee and retired employee participation and coverage,
6 including establishment of eligibility criteria subject to the
7 requirements of section 9 of this act. The same terms and conditions
8 of participation and coverage, including eligibility criteria, shall
9 apply to state employees and to school district employees and
10 educational service district employees.

11 (4) The board may authorize premium contributions for an employee
12 and the employee's dependents in a manner that encourages the use of
13 cost-efficient managed health care systems. During the 2005-2007
14 fiscal biennium, the board may only authorize premium contributions for
15 an employee and the employee's dependents that are the same, regardless
16 of an employee's status as represented or nonrepresented by a
17 collective bargaining unit under the personnel system reform act of
18 2002. The board shall require participating school district and
19 educational service district employees to pay at least the same
20 employee premiums by plan and family size as state employees pay.

21 (5) The board shall develop a health savings account option for
22 employees that conform to section 223, Part VII of subchapter B of
23 chapter 1 of the internal revenue code of 1986. The board shall comply
24 with all applicable federal standards related to the establishment of
25 health savings accounts.

26 (6) Notwithstanding any other provision of this chapter, the board
27 shall develop a high deductible health plan to be offered in
28 conjunction with a health savings account developed under subsection
29 (5) of this section.

30 (7) Employees shall choose participation in one of the health care
31 benefit plans developed by the board and may be permitted to waive
32 coverage under terms and conditions established by the board.

33 (8) The board shall review plans proposed by insuring entities that
34 desire to offer property insurance and/or accident and casualty
35 insurance to state employees through payroll deduction. The board may
36 approve any such plan for payroll deduction by insuring entities
37 holding a valid certificate of authority in the state of Washington and

1 which the board determines to be in the best interests of employees and
2 the state. The board shall promulgate rules setting forth criteria by
3 which it shall evaluate the plans.

4 (9) Before January 1, 1998, the public employees' benefits board
5 shall make available one or more fully insured long-term care insurance
6 plans that comply with the requirements of chapter 48.84 RCW. Such
7 programs shall be made available to eligible employees, retired
8 employees, and retired school employees as well as eligible dependents
9 which, for the purpose of this section, includes the parents of the
10 employee or retiree and the parents of the spouse of the employee or
11 retiree. Employees of local governments and employees of political
12 subdivisions not otherwise enrolled in the public employees' benefits
13 board sponsored medical programs may enroll under terms and conditions
14 established by the administrator, if it does not jeopardize the
15 financial viability of the public employees' benefits board's long-term
16 care offering.

17 (a) Participation of eligible employees or retired employees and
18 retired school employees in any long-term care insurance plan made
19 available by the public employees' benefits board is voluntary and
20 shall not be subject to binding arbitration under chapter 41.56 RCW.
21 Participation is subject to reasonable underwriting guidelines and
22 eligibility rules established by the public employees' benefits board
23 and the health care authority.

24 (b) The employee, retired employee, and retired school employee are
25 solely responsible for the payment of the premium rates developed by
26 the health care authority. The health care authority is authorized to
27 charge a reasonable administrative fee in addition to the premium
28 charged by the long-term care insurer, which shall include the health
29 care authority's cost of administration, marketing, and consumer
30 education materials prepared by the health care authority and the
31 office of the insurance commissioner.

32 (c) To the extent administratively possible, the state shall
33 establish an automatic payroll or pension deduction system for the
34 payment of the long-term care insurance premiums.

35 (d) The public employees' benefits board and the health care
36 authority shall establish a technical advisory committee to provide
37 advice in the development of the benefit design and establishment of
38 underwriting guidelines and eligibility rules. The committee shall

1 also advise the board and authority on effective and cost-effective
2 ways to market and distribute the long-term care product. The
3 technical advisory committee shall be comprised, at a minimum, of
4 representatives of the office of the insurance commissioner, providers
5 of long-term care services, licensed insurance agents with expertise in
6 long-term care insurance, employees, retired employees, retired school
7 employees, and other interested parties determined to be appropriate by
8 the board.

9 (e) The health care authority shall offer employees, retired
10 employees, and retired school employees the option of purchasing long-
11 term care insurance through licensed agents or brokers appointed by the
12 long-term care insurer. The authority, in consultation with the public
13 employees' benefits board, shall establish marketing procedures and may
14 consider all premium components as a part of the contract negotiations
15 with the long-term care insurer.

16 (f) In developing the long-term care insurance benefit designs, the
17 public employees' benefits board shall include an alternative plan of
18 care benefit, including adult day services, as approved by the office
19 of the insurance commissioner.

20 (g) The health care authority, with the cooperation of the office
21 of the insurance commissioner, shall develop a consumer education
22 program for the eligible employees, retired employees, and retired
23 school employees designed to provide education on the potential need
24 for long-term care, methods of financing long-term care, and the
25 availability of long-term care insurance products including the
26 products offered by the board.

27 (h) By December 1998, the health care authority, in consultation
28 with the public employees' benefits board, shall submit a report to the
29 appropriate committees of the legislature, including an analysis of the
30 marketing and distribution of the long-term care insurance provided
31 under this section.

32 **Sec. 11.** RCW 7.70.065 and 2006 c 93 s 1 are each amended to read
33 as follows:

34 (1) Informed consent for health care for a patient who is not
35 competent, as defined in RCW 11.88.010(1)(e), to consent may be
36 obtained from a person authorized to consent on behalf of such patient.

1 (a) Persons authorized to provide informed consent to health care
2 on behalf of a patient who is not competent to consent, based upon a
3 reason other than incapacity as defined in RCW 11.88.010(1)(d), shall
4 be a member of one of the following classes of persons in the following
5 order of priority:

6 (i) The appointed guardian of the patient, if any;

7 (ii) The individual, if any, to whom the patient has given a
8 durable power of attorney that encompasses the authority to make health
9 care decisions;

10 (iii) The patient's spouse or state registered domestic partner;

11 (iv) Children of the patient who are at least eighteen years of
12 age;

13 (v) Parents of the patient; and

14 (vi) Adult brothers and sisters of the patient.

15 (b) If the health care provider seeking informed consent for
16 proposed health care of the patient who is not competent to consent
17 under RCW 11.88.010(1)(e), other than a person determined to be
18 incapacitated because he or she is under the age of majority and who is
19 not otherwise authorized to provide informed consent, makes reasonable
20 efforts to locate and secure authorization from a competent person in
21 the first or succeeding class and finds no such person available,
22 authorization may be given by any person in the next class in the order
23 of descending priority. However, no person under this section may
24 provide informed consent to health care:

25 (i) If a person of higher priority under this section has refused
26 to give such authorization; or

27 (ii) If there are two or more individuals in the same class and the
28 decision is not unanimous among all available members of that class.

29 (c) Before any person authorized to provide informed consent on
30 behalf of a patient not competent to consent under RCW 11.88.010(1)(e),
31 other than a person determined to be incapacitated because he or she is
32 under the age of majority and who is not otherwise authorized to
33 provide informed consent, exercises that authority, the person must
34 first determine in good faith that that patient, if competent, would
35 consent to the proposed health care. If such a determination cannot be
36 made, the decision to consent to the proposed health care may be made
37 only after determining that the proposed health care is in the
38 patient's best interests.

1 (2) Informed consent for health care, including mental health care,
2 for a patient who is not competent, as defined in RCW 11.88.010(1)(e),
3 because he or she is under the age of majority and who is not otherwise
4 authorized to provide informed consent, may be obtained from a person
5 authorized to consent on behalf of such a patient.

6 (a) Persons authorized to provide informed consent to health care,
7 including mental health care, on behalf of a patient who is
8 incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is
9 under the age of majority and who is not otherwise authorized to
10 provide informed consent, shall be a member of one of the following
11 classes of persons in the following order of priority:

12 (i) The appointed guardian, or legal custodian authorized pursuant
13 to Title 26 RCW, of the minor patient, if any;

14 (ii) A person authorized by the court to consent to medical care
15 for a child in out-of-home placement pursuant to chapter 13.32A or
16 13.34 RCW, if any;

17 (iii) Parents of the minor patient;

18 (iv) The individual, if any, to whom the minor's parent has given
19 a signed authorization to make health care decisions for the minor
20 patient; and

21 (v) A competent adult representing himself or herself to be a
22 relative responsible for the health care of such minor patient or a
23 competent adult who has signed and dated a declaration under penalty of
24 perjury pursuant to RCW 9A.72.085 stating that the adult person is a
25 relative responsible for the health care of the minor patient. Such
26 declaration shall be effective for up to six months from the date of
27 the declaration.

28 (b) A health care provider may, but is not required to, rely on the
29 representations or declaration of a person claiming to be a relative
30 responsible for the care of the minor patient, under (a)(v) of this
31 subsection, if the health care provider does not have actual notice of
32 the falsity of any of the statements made by the person claiming to be
33 a relative responsible for the health care of the minor patient.

34 (c) A health care facility or a health care provider may, in its
35 discretion, require documentation of a person's claimed status as being
36 a relative responsible for the health care of the minor patient.
37 However, there is no obligation to require such documentation.

1 (d) The health care provider or health care facility where services
2 are rendered shall be immune from suit in any action, civil or
3 criminal, or from professional or other disciplinary action when such
4 reliance is based on a declaration signed under penalty of perjury
5 pursuant to RCW 9A.72.085 stating that the adult person is a relative
6 responsible for the health care of the minor patient under (a)(v) of
7 this subsection.

8 (3) For the purposes of this section, "health care," "health care
9 provider," and "health care facility" shall be defined as established
10 in RCW 70.02.010.

11 **Sec. 12.** RCW 70.02.050 and 2006 c 235 s 3 are each amended to read
12 as follows:

13 (1) A health care provider or health care facility may disclose
14 health care information about a patient without the patient's
15 authorization to the extent a recipient needs to know the information,
16 if the disclosure is:

17 (a) To a person who the provider or facility reasonably believes is
18 providing health care to the patient;

19 (b) To any other person who requires health care information for
20 health care education, or to provide planning, quality assurance, peer
21 review, or administrative, legal, financial, actuarial services to, or
22 other health care operations for or on behalf of the health care
23 provider or health care facility; or for assisting the health care
24 provider or health care facility in the delivery of health care and the
25 health care provider or health care facility reasonably believes that
26 the person:

27 (i) Will not use or disclose the health care information for any
28 other purpose; and

29 (ii) Will take appropriate steps to protect the health care
30 information;

31 (c) To any other health care provider or health care facility
32 reasonably believed to have previously provided health care to the
33 patient, to the extent necessary to provide health care to the patient,
34 unless the patient has instructed the health care provider or health
35 care facility in writing not to make the disclosure;

36 (d) To any person if the health care provider or health care
37 facility reasonably believes that disclosure will avoid or minimize an

1 imminent danger to the health or safety of the patient or any other
2 individual, however there is no obligation under this chapter on the
3 part of the provider or facility to so disclose;

4 (e) To immediate family members of the patient, including a
5 patient's state registered domestic partner, or any other individual
6 with whom the patient is known to have a close personal relationship,
7 if made in accordance with good medical or other professional practice,
8 unless the patient has instructed the health care provider or health
9 care facility in writing not to make the disclosure;

10 (f) To a health care provider or health care facility who is the
11 successor in interest to the health care provider or health care
12 facility maintaining the health care information;

13 (g) For use in a research project that an institutional review
14 board has determined:

15 (i) Is of sufficient importance to outweigh the intrusion into the
16 privacy of the patient that would result from the disclosure;

17 (ii) Is impracticable without the use or disclosure of the health
18 care information in individually identifiable form;

19 (iii) Contains reasonable safeguards to protect the information
20 from redisclosure;

21 (iv) Contains reasonable safeguards to protect against identifying,
22 directly or indirectly, any patient in any report of the research
23 project; and

24 (v) Contains procedures to remove or destroy at the earliest
25 opportunity, consistent with the purposes of the project, information
26 that would enable the patient to be identified, unless an institutional
27 review board authorizes retention of identifying information for
28 purposes of another research project;

29 (h) To a person who obtains information for purposes of an audit,
30 if that person agrees in writing to:

31 (i) Remove or destroy, at the earliest opportunity consistent with
32 the purpose of the audit, information that would enable the patient to
33 be identified; and

34 (ii) Not to disclose the information further, except to accomplish
35 the audit or report unlawful or improper conduct involving fraud in
36 payment for health care by a health care provider or patient, or other
37 unlawful conduct by the health care provider;

1 (i) To an official of a penal or other custodial institution in
2 which the patient is detained;

3 (j) To provide directory information, unless the patient has
4 instructed the health care provider or health care facility not to make
5 the disclosure;

6 (k) To fire, police, sheriff, or another public authority, that
7 brought, or caused to be brought, the patient to the health care
8 facility or health care provider if the disclosure is limited to the
9 patient's name, residence, sex, age, occupation, condition, diagnosis,
10 estimated or actual discharge date, or extent and location of injuries
11 as determined by a physician, and whether the patient was conscious
12 when admitted;

13 (l) To federal, state, or local law enforcement authorities and the
14 health care provider, health care facility, or third-party payor
15 believes in good faith that the health care information disclosed
16 constitutes evidence of criminal conduct that occurred on the premises
17 of the health care provider, health care facility, or third-party
18 payor;

19 (m) To another health care provider, health care facility, or
20 third-party payor for the health care operations of the health care
21 provider, health care facility, or third-party payor that receives the
22 information, if each entity has or had a relationship with the patient
23 who is the subject of the health care information being requested, the
24 health care information pertains to such relationship, and the
25 disclosure is for the purposes described in RCW 70.02.010(8) (a) and
26 (b); or

27 (n) For payment.

28 (2) A health care provider shall disclose health care information
29 about a patient without the patient's authorization if the disclosure
30 is:

31 (a) To federal, state, or local public health authorities, to the
32 extent the health care provider is required by law to report health
33 care information; when needed to determine compliance with state or
34 federal licensure, certification or registration rules or laws; or when
35 needed to protect the public health;

36 (b) To federal, state, or local law enforcement authorities to the
37 extent the health care provider is required by law;

1 (c) To federal, state, or local law enforcement authorities, upon
2 receipt of a written or oral request made to a nursing supervisor,
3 administrator, or designated privacy official, in a case in which the
4 patient is being treated or has been treated for a bullet wound,
5 gunshot wound, powder burn, or other injury arising from or caused by
6 the discharge of a firearm, or an injury caused by a knife, an ice
7 pick, or any other sharp or pointed instrument which federal, state, or
8 local law enforcement authorities reasonably believe to have been
9 intentionally inflicted upon a person, or a blunt force injury that
10 federal, state, or local law enforcement authorities reasonably believe
11 resulted from a criminal act, the following information, if known:

- 12 (i) The name of the patient;
- 13 (ii) The patient's residence;
- 14 (iii) The patient's sex;
- 15 (iv) The patient's age;
- 16 (v) The patient's condition;
- 17 (vi) The patient's diagnosis, or extent and location of injuries as
18 determined by a health care provider;
- 19 (vii) Whether the patient was conscious when admitted;
- 20 (viii) The name of the health care provider making the
21 determination in (c)(v), (vi), and (vii) of this subsection;
- 22 (ix) Whether the patient has been transferred to another facility;
- 23 and
- 24 (x) The patient's discharge time and date;
- 25 (d) To county coroners and medical examiners for the investigations
26 of deaths;
- 27 (e) Pursuant to compulsory process in accordance with RCW
28 70.02.060.

29 (3) All state or local agencies obtaining patient health care
30 information pursuant to this section shall adopt rules establishing
31 their record acquisition, retention, and security policies that are
32 consistent with this chapter.

33 **Sec. 13.** RCW 11.07.010 and 2002 c 18 s 1 are each amended to read
34 as follows:

35 (1) This section applies to all nonprobate assets, wherever
36 situated, held at the time of entry by a superior court of this state

1 of a decree of dissolution of marriage or a declaration of invalidity
2 or certification of termination of a state registered domestic
3 partnership.

4 (2)(a) If a marriage is dissolved or invalidated, or a state
5 registered domestic partnership terminated, a provision made prior to
6 that event that relates to the payment or transfer at death of the
7 decedent's interest in a nonprobate asset in favor of or granting an
8 interest or power to the decedent's former spouse or state registered
9 domestic partner, is revoked. A provision affected by this section
10 must be interpreted, and the nonprobate asset affected passes, as if
11 the former spouse or former state registered domestic partner, failed
12 to survive the decedent, having died at the time of entry of the decree
13 of dissolution or declaration of invalidity or termination of state
14 registered domestic partnership.

15 (b) This subsection does not apply if and to the extent that:

16 (i) The instrument governing disposition of the nonprobate asset
17 expressly provides otherwise;

18 (ii) The decree of dissolution ((~~or~~)), declaration of invalidity,
19 or other court order requires that the decedent maintain a nonprobate
20 asset for the benefit of a former spouse or former state registered
21 domestic partner or children of the marriage, payable on the decedent's
22 death either outright or in trust, and other nonprobate assets of the
23 decedent fulfilling such a requirement for the benefit of the former
24 spouse or former state registered domestic partner or children of the
25 marriage do not exist at the decedent's death; ((~~or~~))

26 (iii) A court order requires that the decedent maintain a
27 nonprobate asset for the benefit of another, payable on the decedent's
28 death either outright or in a trust, and other nonprobate assets of the
29 decedent fulfilling such a requirement do not exist at the decedent's
30 death; or

31 (iv) If not for this subsection, the decedent could not have
32 effected the revocation by unilateral action because of the terms of
33 the decree ((~~or~~)), declaration, termination of state registered
34 domestic partnership, or for any other reason, immediately after the
35 entry of the decree of dissolution ((~~or~~)), declaration of invalidity,
36 or termination of state registered domestic partnership.

37 (3)(a) A payor or other third party in possession or control of a
38 nonprobate asset at the time of the decedent's death is not liable for

1 making a payment or transferring an interest in a nonprobate asset to
2 a decedent's former spouse or state registered domestic partner, whose
3 interest in the nonprobate asset is revoked under this section, or for
4 taking another action in reliance on the validity of the instrument
5 governing disposition of the nonprobate asset, before the payor or
6 other third party has actual knowledge of the dissolution or other
7 invalidation of marriage or termination of the state registered
8 domestic partnership. A payor or other third party is liable for a
9 payment or transfer made or other action taken after the payor or other
10 third party has actual knowledge of a revocation under this section.

11 (b) This section does not require a payor or other third party to
12 pay or transfer a nonprobate asset to a beneficiary designated in a
13 governing instrument affected by the dissolution or other invalidation
14 of marriage or termination of state registered domestic partnership, or
15 to another person claiming an interest in the nonprobate asset, if the
16 payor or third party has actual knowledge of the existence of a dispute
17 between the former spouse or former state registered domestic partner,
18 and the beneficiaries or other persons concerning rights of ownership
19 of the nonprobate asset as a result of the application of this section
20 among the former spouse or former state registered domestic partner,
21 and the beneficiaries or among other persons, or if the payor or third
22 party is otherwise uncertain as to who is entitled to the nonprobate
23 asset under this section. In such a case, the payor or third party
24 may, without liability, notify in writing all beneficiaries or other
25 persons claiming an interest in the nonprobate asset of either the
26 existence of the dispute or its uncertainty as to who is entitled to
27 payment or transfer of the nonprobate asset. The payor or third party
28 may also, without liability, refuse to pay or transfer a nonprobate
29 asset in such a circumstance to a beneficiary or other person claiming
30 an interest until the time that either:

31 (i) All beneficiaries and other interested persons claiming an
32 interest have consented in writing to the payment or transfer; or

33 (ii) The payment or transfer is authorized or directed by a court
34 of proper jurisdiction.

35 (c) Notwithstanding subsections (1) and (2) of this section and (a)
36 and (b) of this subsection, a payor or other third party having actual
37 knowledge of the existence of a dispute between beneficiaries or other
38 persons concerning rights to a nonprobate asset as a result of the

1 application of this section may condition the payment or transfer of
2 the nonprobate asset on execution, in a form and with security
3 acceptable to the payor or other third party, of a bond in an amount
4 that is double the fair market value of the nonprobate asset at the
5 time of the decedent's death or the amount of an adverse claim,
6 whichever is the lesser, or of a similar instrument to provide security
7 to the payor or other third party, indemnifying the payor or other
8 third party for any liability, loss, damage, costs, and expenses for
9 and on account of payment or transfer of the nonprobate asset.

10 (d) As used in this subsection, "actual knowledge" means, for a
11 payor or other third party in possession or control of the nonprobate
12 asset at or following the decedent's death, written notice to the payor
13 or other third party, or to an officer of a payor or third party in the
14 course of his or her employment, received after the decedent's death
15 and within a time that is sufficient to afford the payor or third party
16 a reasonable opportunity to act upon the knowledge. The notice must
17 identify the nonprobate asset with reasonable specificity. The notice
18 also must be sufficient to inform the payor or other third party of the
19 revocation of the provisions in favor of the decedent's spouse or state
20 registered domestic partner, by reason of the dissolution or
21 invalidation of marriage or termination of state registered domestic
22 partnership, or to inform the payor or third party of a dispute
23 concerning rights to a nonprobate asset as a result of the application
24 of this section. Receipt of the notice for a period of more than
25 thirty days is presumed to be received within a time that is sufficient
26 to afford the payor or third party a reasonable opportunity to act upon
27 the knowledge, but receipt of the notice for a period of less than five
28 business days is presumed not to be a sufficient time for these
29 purposes. These presumptions may be rebutted only by clear and
30 convincing evidence to the contrary.

31 (4)(a) A person who purchases a nonprobate asset from a former
32 spouse, former state registered domestic partner, or other person, for
33 value and without actual knowledge, or who receives from a former
34 spouse, former state registered domestic partner, or other person
35 payment or transfer of a nonprobate asset without actual knowledge and
36 in partial or full satisfaction of a legally enforceable obligation, is
37 neither obligated under this section to return the payment, property,
38 or benefit nor is liable under this section for the amount of the

1 payment or the value of the nonprobate asset. However, a former
2 spouse, former state registered domestic partner, or other person who,
3 with actual knowledge, not for value, or not in satisfaction of a
4 legally enforceable obligation, receives payment or transfer of a
5 nonprobate asset to which that person is not entitled under this
6 section is obligated to return the payment or nonprobate asset, or is
7 personally liable for the amount of the payment or value of the
8 nonprobate asset, to the person who is entitled to it under this
9 section.

10 (b) As used in this subsection, "actual knowledge" means, for a
11 person described in (a) of this subsection who purchases or receives a
12 nonprobate asset from a former spouse, former state registered domestic
13 partner, or other person, personal knowledge or possession of documents
14 relating to the revocation upon dissolution or invalidation of marriage
15 of provisions relating to the payment or transfer at the decedent's
16 death of the nonprobate asset, received within a time after the
17 decedent's death and before the purchase or receipt that is sufficient
18 to afford the person purchasing or receiving the nonprobate asset
19 reasonable opportunity to act upon the knowledge. Receipt of the
20 personal knowledge or possession of the documents for a period of more
21 than thirty days is presumed to be received within a time that is
22 sufficient to afford the payor or third party a reasonable opportunity
23 to act upon the knowledge, but receipt of the notice for a period of
24 less than five business days is presumed not to be a sufficient time
25 for these purposes. These presumptions may be rebutted only by clear
26 and convincing evidence to the contrary.

27 (5) As used in this section, "nonprobate asset" means those rights
28 and interests of a person having beneficial ownership of an asset that
29 pass on the person's death under only the following written instruments
30 or arrangements other than the decedent's will:

31 (a) A payable-on-death provision of a life insurance policy,
32 employee benefit plan, annuity or similar contract, or individual
33 retirement account, unless provided otherwise by controlling federal
34 law;

35 (b) A payable-on-death, trust, or joint with right of survivorship
36 bank account;

37 (c) A trust of which the person is a grantor and that becomes
38 effective or irrevocable only upon the person's death; or

1 (d) Transfer on death beneficiary designations of a transfer on
2 death or pay on death security, if such designations are authorized
3 under Washington law.

4 For the general definition in this title of "nonprobate asset," see
5 RCW 11.02.005(15) and for the definition of "nonprobate asset" relating
6 to testamentary disposition of nonprobate assets, see RCW 11.11.010(7).

7 (6) This section is remedial in nature and applies as of July 25,
8 1993, to decrees of dissolution and declarations of invalidity entered
9 after July 24, 1993, and this section applies as of January 1, 1995, to
10 decrees of dissolution and declarations of invalidity entered before
11 July 25, 1993.

12 **Sec. 14.** RCW 11.94.080 and 2001 c 203 s 1 are each amended to read
13 as follows:

14 (1) An appointment of a principal's spouse or state registered
15 domestic partner, as attorney in fact, including appointment as
16 successor or coattorney in fact, under a power of attorney shall be
17 revoked upon entry of a decree of dissolution or legal separation or
18 declaration of invalidity of the marriage or termination of the state
19 registered domestic partnership of the principal and the attorney in
20 fact, unless the power of attorney or the decree provides otherwise.
21 The effect of this revocation shall be as if the spouse or state
22 registered domestic partner, resigned as attorney in fact, or if named
23 as successor attorney in fact, renounced the appointment, as of the
24 date of entry of the decree or declaration or filing of the certificate
25 of termination of the state registered domestic partnership, and the
26 power of attorney shall otherwise remain in effect with respect to
27 appointments of other persons as attorney in fact for the principal or
28 procedures prescribed in the power of attorney to appoint other
29 persons, and any terms relating to service by persons as attorney in
30 fact.

31 (2) This section applies to all decrees of dissolution and
32 declarations of invalidity of marriage entered after July 22, 2001.

33 **Sec. 15.** RCW 68.32.020 and 2005 c 365 s 92 are each amended to
34 read as follows:

35 The spouse or state registered domestic partner, of an owner of any
36 plot or right of interment containing more than one placement space has

1 a vested right of placement in the plot and any person thereafter
2 becoming the spouse or state registered domestic partner, of the owner
3 has a vested right of placement in the plot if more than one space is
4 unoccupied at the time the person becomes the spouse or state
5 registered domestic partner, of the owner.

6 **Sec. 16.** RCW 68.32.030 and 2005 c 365 s 93 are each amended to
7 read as follows:

8 No conveyance or other action of the owner without the written
9 consent of the spouse or state registered domestic partner, of the
10 owner divests the spouse or state registered domestic partner, of a
11 vested right of placement. A final decree of divorce between them or
12 certification of termination of the state registered domestic
13 partnership terminates the vested right of placement unless otherwise
14 provided in the decree.

15 **Sec. 17.** RCW 68.32.040 and 2005 c 365 s 94 are each amended to
16 read as follows:

17 If no placement is made in a plot or right of interment, which has
18 been transferred by deed or certificate of ownership to an individual
19 owner, the title descends to the surviving spouse or state registered
20 domestic partner. If there is no surviving spouse or state registered
21 domestic partner, the title descends to the heirs at law of the owner.
22 Following death of the owner, if all remains previously placed are
23 lawfully removed and the owner did not dispose of the plot or right of
24 interment by specific devise or by a written declaration filed and
25 recorded in the office of the cemetery authority, the title descends to
26 the surviving spouse or state registered domestic partner. If there is
27 no surviving spouse or state registered domestic partner, the title
28 descends to the heirs at law of the owner.

29 **Sec. 18.** RCW 68.32.060 and 2005 c 365 s 96 are each amended to
30 read as follows:

31 Whenever an interment of the human remains of a member or of a
32 relative of a member of the family of the record owner or of the
33 remains of the record owner is made in a plot transferred by deed or
34 certificate of ownership to an individual owner and both the owner and
35 the surviving spouse or state registered domestic partner, if any, die

1 with children then living without making disposition of the plot either
2 by a specific devise, or by a written declaration filed and recorded in
3 the office of the cemetery authority, the plot shall thereafter be held
4 as a family plot and shall be subject to sale only upon agreement of
5 the children of the owner living at the time of sale.

6 **Sec. 19.** RCW 68.32.110 and 2005 c 365 s 101 are each amended to
7 read as follows:

8 In a family plot one right of interment may be used for the owner's
9 interment and one for the owner's surviving spouse or state registered
10 domestic partner, if any. Any unoccupied spaces may then be used by
11 the remaining parents and children of the deceased owner, if any, then
12 to the spouse or state registered domestic partner of any child of the
13 owner, then to the heirs at law of the owner, in the order of death.

14 **Sec. 20.** RCW 68.32.130 and 2005 c 365 s 102 are each amended to
15 read as follows:

16 Any surviving spouse, state registered domestic partner, parent,
17 child, or heir having a right of placement in a family plot may waive
18 such right in favor of any other relative (~~(or)~~), spouse, or state
19 registered domestic partner of a relative of the deceased owner. Upon
20 such a waiver, the remains of the person in whose favor the waiver is
21 made may be placed in the plot.

22 **Sec. 21.** RCW 68.50.100 and 2003 c 53 s 307 are each amended to
23 read as follows:

24 (1) The right to dissect a dead body shall be limited to cases
25 specially provided by statute or by the direction or will of the
26 deceased; cases where a coroner is authorized to hold an inquest upon
27 the body, and then only as he or she may authorize dissection; and
28 cases where the spouse, state registered domestic partner, or next of
29 kin charged by law with the duty of burial shall authorize dissection
30 for the purpose of ascertaining the cause of death, and then only to
31 the extent so authorized: PROVIDED, That the coroner, in his or her
32 discretion, may make or cause to be made by a competent pathologist,
33 toxicologist, or physician, an autopsy or postmortem in any case in
34 which the coroner has jurisdiction of a body: PROVIDED, FURTHER, That
35 the coroner may with the approval of the University of Washington and

1 with the consent of a parent or guardian deliver any body of a deceased
2 person under the age of three years over which he or she has
3 jurisdiction to the University of Washington medical school for the
4 purpose of having an autopsy made to determine the cause of death.

5 (2) Every person who shall make, cause, or procure to be made any
6 dissection of a body, except as provided in this section, is guilty of
7 a gross misdemeanor.

8 **Sec. 22.** RCW 68.50.101 and 1987 c 331 s 57 are each amended to
9 read as follows:

10 Autopsy or post mortem may be performed in any case where
11 authorization has been given by a member of one of the following
12 classes of persons in the following order of priority:

- 13 (1) The surviving spouse or state registered domestic partner;
14 (2) Any child of the decedent who is eighteen years of age or
15 older;
16 (3) One of the parents of the decedent;
17 (4) Any adult brother or sister of the decedent;
18 (5) A person who was guardian of the decedent at the time of death;
19 (6) Any other person or agency authorized or under an obligation to
20 dispose of the remains of the decedent. The chief official of any such
21 agency shall designate one or more persons to execute authorizations
22 pursuant to the provisions of this section.

23 If the person seeking authority to perform an autopsy or post
24 mortem makes reasonable efforts to locate and secure authorization from
25 a competent person in the first or succeeding class and finds no such
26 person available, authorization may be given by any person in the next
27 class, in the order of descending priority. However, no person under
28 this section shall have the power to authorize an autopsy or post
29 mortem if a person of higher priority under this section has refused
30 such authorization: PROVIDED, That this section shall not affect
31 autopsies performed pursuant to RCW 68.50.010 or 68.50.103.

32 **Sec. 23.** RCW 68.50.105 and 1987 c 331 s 58 are each amended to
33 read as follows:

34 Reports and records of autopsies or post mortems shall be
35 confidential, except that the following persons may examine and obtain
36 copies of any such report or record: The personal representative of

1 the decedent as defined in RCW 11.02.005, any family member, the
2 attending physician, the prosecuting attorney or law enforcement
3 agencies having jurisdiction, public health officials, or to the
4 department of labor and industries in cases in which it has an interest
5 under RCW 68.50.103.

6 The coroner, the medical examiner, or the attending physician
7 shall, upon request, meet with the family of the decedent to discuss
8 the findings of the autopsy or post mortem. For the purposes of this
9 section, the term "family" means the surviving spouse, state registered
10 domestic partner, or any child, parent, grandparent, grandchild,
11 brother, or sister of the decedent, or any person who was guardian of
12 the decedent at the time of death.

13 **Sec. 24.** RCW 68.50.160 and 2005 c 365 s 141 are each amended to
14 read as follows:

15 (1) A person has the right to control the disposition of his or her
16 own remains without the predeath or postdeath consent of another
17 person. A valid written document expressing the decedent's wishes
18 regarding the place or method of disposition of his or her remains,
19 signed by the decedent in the presence of a witness, is sufficient
20 legal authorization for the procedures to be accomplished.

21 (2) Prearrangements that are prepaid, or filed with a licensed
22 funeral establishment or cemetery authority, under RCW 18.39.280
23 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation
24 or substantial revision by survivors. Absent actual knowledge of
25 contrary legal authorization under this section, a licensed funeral
26 establishment or cemetery authority shall not be held criminally nor
27 civilly liable for acting upon such prearrangements.

28 (3) If the decedent has not made a prearrangement as set forth in
29 subsection (2) of this section or the costs of executing the decedent's
30 wishes regarding the disposition of the decedent's remains exceeds a
31 reasonable amount or directions have not been given by the decedent,
32 the right to control the disposition of the remains of a deceased
33 person vests in, and the duty of disposition and the liability for the
34 reasonable cost of preparation, care, and disposition of such remains
35 devolves upon the following in the order named:

- 36 (a) The surviving spouse or state registered domestic partner.
- 37 (b) The surviving adult children of the decedent.

1 (c) The surviving parents of the decedent.

2 (d) The surviving siblings of the decedent.

3 (e) A person acting as a representative of the decedent under the
4 signed authorization of the decedent.

5 (4) If a cemetery authority as defined in RCW 68.04.190 or a
6 funeral establishment licensed under chapter 18.39 RCW has made a good
7 faith effort to locate the person cited in subsection (3)(a) through
8 (e) of this section or the legal representative of the decedent's
9 estate, the cemetery authority or funeral establishment shall have the
10 right to rely on an authority to bury or cremate the human remains,
11 executed by the most responsible party available, and the cemetery
12 authority or funeral establishment may not be held criminally or
13 civilly liable for burying or cremating the human remains. In the
14 event any government agency provides the funds for the disposition of
15 any human remains and the government agency elects to provide funds for
16 cremation only, the cemetery authority or funeral establishment may not
17 be held criminally or civilly liable for cremating the human remains.

18 (5) The liability for the reasonable cost of preparation, care, and
19 disposition devolves jointly and severally upon all kin of the decedent
20 in the same degree of kindred, in the order listed in subsection (3) of
21 this section, and upon the estate of the decedent.

22 **Sec. 25.** RCW 68.50.200 and 2005 c 365 s 144 are each amended to
23 read as follows:

24 Human remains may be removed from a plot in a cemetery with the
25 consent of the cemetery authority and the written consent of one of the
26 following in the order named:

27 (1) The surviving spouse or state registered domestic partner.

28 (2) The surviving children of the decedent.

29 (3) The surviving parents of the decedent.

30 (4) The surviving brothers or sisters of the decedent.

31 If the required consent cannot be obtained, permission by the
32 superior court of the county where the cemetery is situated is
33 sufficient: PROVIDED, That the permission shall not violate the terms
34 of a written contract or the rules and regulations of the cemetery
35 authority.

1 **Sec. 26.** RCW 68.50.550 and 1993 c 228 s 4 are each amended to read
2 as follows:

3 (1) A member of the following classes of persons, in the order of
4 priority listed, absent contrary instructions by the decedent, may make
5 an anatomical gift of all or a part of the decedent's body for an
6 authorized purpose, unless the decedent, at the time of death, had made
7 an unrevoked refusal to make that anatomical gift:

8 (a) The appointed guardian of the person of the decedent at the
9 time of death;

10 (b) The individual, if any, to whom the decedent had given a
11 durable power of attorney that encompassed the authority to make health
12 care decisions;

13 (c) The spouse or state registered domestic partner, of the
14 decedent;

15 (d) A son or daughter of the decedent who is at least eighteen
16 years of age;

17 (e) Either parent of the decedent;

18 (f) A brother or sister of the decedent who is at least eighteen
19 years of age;

20 (g) A grandparent of the decedent.

21 (2) An anatomical gift may not be made by a person listed in
22 subsection (1) of this section if:

23 (a) A person in a prior class is available at the time of death to
24 make an anatomical gift;

25 (b) The person proposing to make an anatomical gift knows of a
26 refusal or contrary indications by the decedent; or

27 (c) The person proposing to make an anatomical gift knows of an
28 objection to making an anatomical gift by a member of the person's
29 class or a prior class.

30 (3) An anatomical gift by a person authorized under subsection (1)
31 of this section must be made by (a) a document of gift signed by the
32 person or (b) the person's telegraphic, recorded telephonic, or other
33 recorded message, or other form of communication from the person that
34 is contemporaneously reduced to writing and signed by the recipient of
35 the communication.

36 (4) An anatomical gift by a person authorized under subsection (1)
37 of this section may be revoked by a member of the same or a prior class

1 if, before procedures have begun for the removal of a part from the
2 body of the decedent, the physician, surgeon, technician, or enucleator
3 removing the part knows of the revocation.

4 (5) A failure to make an anatomical gift under subsection (1) of
5 this section is not an objection to the making of an anatomical gift.

6 **Sec. 27.** RCW 11.04.015 and 1974 ex.s. c 117 s 6 are each amended
7 to read as follows:

8 The net estate of a person dying intestate, or that portion thereof
9 with respect to which the person shall have died intestate, shall
10 descend subject to the provisions of RCW 11.04.250 and 11.02.070, and
11 shall be distributed as follows:

12 (1) Share of surviving spouse or state registered domestic partner.
13 The surviving spouse or state registered domestic partner shall receive
14 the following share:

15 (a) All of the decedent's share of the net community estate; and

16 (b) One-half of the net separate estate if the intestate is
17 survived by issue; or

18 (c) Three-quarters of the net separate estate if there is no
19 surviving issue, but the intestate is survived by one or more of his
20 parents, or by one or more of the issue of one or more of his parents;
21 or

22 (d) All of the net separate estate, if there is no surviving issue
23 nor parent nor issue of parent.

24 (2) Shares of others than surviving spouse or state registered
25 domestic partner. The share of the net estate not distributable to the
26 surviving spouse or state registered domestic partner, or the entire
27 net estate if there is no surviving spouse or state registered domestic
28 partner, shall descend and be distributed as follows:

29 (a) To the issue of the intestate; if they are all in the same
30 degree of kinship to the intestate, they shall take equally, or if of
31 unequal degree, then those of more remote degree shall take by
32 representation.

33 (b) If the intestate not be survived by issue, then to the parent
34 or parents who survive the intestate.

35 (c) If the intestate not be survived by issue or by either parent,
36 then to those issue of the parent or parents who survive the intestate;

1 if they are all in the same degree of kinship to the intestate, they
2 shall take equally, or, if of unequal degree, then those of more remote
3 degree shall take by representation.

4 (d) If the intestate not be survived by issue or by either parent,
5 or by any issue of the parent or parents who survive the intestate,
6 then to the grandparent or grandparents who survive the intestate; if
7 both maternal and paternal grandparents survive the intestate, the
8 maternal grandparent or grandparents shall take one-half and the
9 paternal grandparent or grandparents shall take one-half.

10 (e) If the intestate not be survived by issue or by either parent,
11 or by any issue of the parent or parents or by any grandparent or
12 grandparents, then to those issue of any grandparent or grandparents
13 who survive the intestate; taken as a group, the issue of the maternal
14 grandparent or grandparents shall share equally with the issue of the
15 paternal grandparent or grandparents, also taken as a group; within
16 each such group, all members share equally if they are all in the same
17 degree of kinship to the intestate, or, if some be of unequal degree,
18 then those of more remote degree shall take by representation.

19 **Sec. 28.** RCW 11.28.120 and 1995 1st sp.s. c 18 s 61 are each
20 amended to read as follows:

21 Administration of an estate if the decedent died intestate or if
22 the personal representative or representatives named in the will
23 declined or were unable to serve shall be granted to some one or more
24 of the persons hereinafter mentioned, and they shall be respectively
25 entitled in the following order:

26 (1) The surviving spouse or state registered domestic partner, or
27 such person as he or she may request to have appointed.

28 (2) The next of kin in the following order: (a) Child or children;
29 (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e)
30 nephews or nieces.

31 (3) The trustee named by the decedent in an inter vivos trust
32 instrument, testamentary trustee named in the will, guardian of the
33 person or estate of the decedent, or attorney in fact appointed by the
34 decedent, if any such a fiduciary controlled or potentially controlled
35 substantially all of the decedent's probate and nonprobate assets.

36 (4) One or more of the beneficiaries or transferees of the
37 decedent's probate or nonprobate assets.

1 (5)(a) The director of revenue, or the director's designee, for
2 those estates having property subject to the provisions of chapter
3 11.08 RCW; however, the director may waive this right.

4 (b) The secretary of the department of social and health services
5 for those estates owing debts for long-term care services as defined in
6 RCW 74.39A.008; however the secretary may waive this right.

7 (6) One or more of the principal creditors.

8 (7) If the persons so entitled shall fail for more than forty days
9 after the death of the decedent to present a petition for letters of
10 administration, or if it appears to the satisfaction of the court that
11 there is no next of kin, as above specified eligible to appointment, or
12 they waive their right, and there are no principal creditor or
13 creditors, or such creditor or creditors waive their right, then the
14 court may appoint any suitable person to administer such estate.

15 **Sec. 29.** RCW 4.20.020 and 1985 c 139 s 1 are each amended to read
16 as follows:

17 Every such action shall be for the benefit of the wife, husband,
18 state registered domestic partner, child or children, including
19 stepchildren, of the person whose death shall have been so caused. If
20 there be no wife (~~(or)~~), husband, state registered domestic partner, or
21 such child or children, such action may be maintained for the benefit
22 of the parents, sisters, or brothers, who may be dependent upon the
23 deceased person for support, and who are resident within the United
24 States at the time of his death.

25 In every such action the jury may give such damages as, under all
26 circumstances of the case, may to them seem just.

27 **Sec. 30.** RCW 4.20.060 and 1985 c 139 s 2 are each amended to read
28 as follows:

29 No action for a personal injury to any person occasioning death
30 shall abate, nor shall such right of action determine, by reason of
31 such death, if such person has a surviving spouse, state registered
32 domestic partner, or child living, including stepchildren, or leaving
33 no surviving spouse, state registered domestic partner, or such
34 children, if there is dependent upon the deceased for support and
35 resident within the United States at the time of decedent's death,
36 parents, sisters, or brothers; but such action may be prosecuted, or

1 commenced and prosecuted, by the executor or administrator of the
2 deceased, in favor of such surviving spouse or state registered
3 domestic partner, or in favor of the surviving spouse or state
4 registered domestic partner and such children, or if no surviving
5 spouse or state registered domestic partner, in favor of such child or
6 children, or if no surviving spouse, state registered domestic partner,
7 or such child or children, then in favor of the decedent's parents,
8 sisters, or brothers who may be dependent upon such person for support,
9 and resident in the United States at the time of decedent's death.

10 **Sec. 31.** RCW 11.94.010 and 2005 c 97 s 12 are each amended to read
11 as follows:

12 (1) Whenever a principal designates another as his or her attorney
13 in fact or agent, by a power of attorney in writing, and the writing
14 contains the words "This power of attorney shall not be affected by
15 disability of the principal," or "This power of attorney shall become
16 effective upon the disability of the principal," or similar words
17 showing the intent of the principal that the authority conferred shall
18 be exercisable notwithstanding the principal's disability, the
19 authority of the attorney in fact or agent is exercisable on behalf of
20 the principal as provided notwithstanding later disability or
21 incapacity of the principal at law or later uncertainty as to whether
22 the principal is dead or alive. All acts done by the attorney in fact
23 or agent pursuant to the power during any period of disability or
24 incompetence or uncertainty as to whether the principal is dead or
25 alive have the same effect and inure to the benefit of and bind the
26 principal or the principal's guardian or heirs, devisees, and personal
27 representative as if the principal were alive, competent, and not
28 disabled. A principal may nominate, by a durable power of attorney,
29 the guardian or limited guardian of his or her estate or person for
30 consideration by the court if protective proceedings for the
31 principal's person or estate are thereafter commenced. The court shall
32 make its appointment in accordance with the principal's most recent
33 nomination in a durable power of attorney except for good cause or
34 disqualification. If a guardian thereafter is appointed for the
35 principal, the attorney in fact or agent, during the continuance of the
36 appointment, shall account to the guardian rather than the principal.

1 The guardian has the same power the principal would have had if the
2 principal were not disabled or incompetent, to revoke, suspend or
3 terminate all or any part of the power of attorney or agency.

4 (2) Persons shall place reasonable reliance on any determination of
5 disability or incompetence as provided in the instrument that specifies
6 the time and the circumstances under which the power of attorney
7 document becomes effective.

8 (3)(a) A principal may authorize his or her attorney-in-fact to
9 provide informed consent for health care decisions on the principal's
10 behalf. If a principal has appointed more than one agent with
11 authority to make mental health treatment decisions in accordance with
12 a directive under chapter 71.32 RCW, to the extent of any conflict, the
13 most recently appointed agent shall be treated as the principal's agent
14 for mental health treatment decisions unless provided otherwise in
15 either appointment.

16 (b) Unless he or she is the spouse, state registered domestic
17 partner, or adult child or brother or sister of the principal, none of
18 the following persons may act as the attorney-in-fact for the
19 principal: Any of the principal's physicians, the physicians'
20 employees, or the owners, administrators, or employees of the health
21 care facility or long-term care facility as defined in RCW 43.190.020
22 where the principal resides or receives care. Except when the
23 principal has consented in a mental health advance directive executed
24 under chapter 71.32 RCW to inpatient admission or electroconvulsive
25 therapy, this authorization is subject to the same limitations as those
26 that apply to a guardian under RCW 11.92.043(5) (a) through (c).

27 (4) A parent or guardian, by a properly executed power of attorney,
28 may authorize an attorney in fact to make health care decisions on
29 behalf of one or more of his or her children, or children for whom he
30 or she is the legal guardian, who are under the age of majority as
31 defined in RCW 26.28.015, to be effective if the child has no other
32 parent or legal representative readily available and authorized to give
33 such consent.

34 (5) A principal may further nominate a guardian or guardians of the
35 person, or of the estate or both, of a minor child, whether born at the
36 time of making the durable power of attorney or afterwards, to continue
37 during the disability of the principal, during the minority of the

1 child or for any less time by including such a provision in his or her
2 power of attorney.

3 (6) The authority of any guardian of the person of any minor child
4 shall supersede the authority of a designated attorney in fact to make
5 health care decisions for the minor only after such designated guardian
6 has been appointed by the court.

7 (7) In the event a conflict between the provisions of a will
8 nominating a testamentary guardian under the authority of RCW 11.88.080
9 and the nomination of a guardian under the authority of this statute,
10 the most recent designation shall control.

11 NEW SECTION. **Sec. 32.** A new section is added to chapter 70.58 RCW
12 to read as follows:

13 Information recorded on death certificates shall include domestic
14 partnership status and the surviving partner's information to the same
15 extent such information is recorded for marital status and the
16 surviving spouse's information.

17 NEW SECTION. **Sec. 33.** Sections 1, 2, and 4 through 8 of this act
18 constitute a new chapter in Title 26 RCW.

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