

SENATE BILL REPORT

SB 5688

As Reported by Senate Committee On:
Government Operations & Elections, February 12, 2009

Title: An act relating to further expanding the rights and responsibilities of state registered domestic partners.

Brief Description: Expanding the rights and responsibilities of state registered domestic partners.

Sponsors: Senators Murray, McDermott, Kohl-Welles, Fairley, Hobbs, Ranker, Pridemore, Kauffman, Kline, Keiser, Regala, Fraser, Prentice, Oemig, Franklin, McAuliffe, Jarrett, Brown, Kilmer and Tom.

Brief History:

Committee Activity: Government Operations & Elections: 2/05/09, 2/12/09 [DPS, DNP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5688 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

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

Staff: Sharon Swanson (786-7447)

Background: In 2007 the Legislature created a domestic partnership registry in the Office of the Secretary of State (OSOS). The legislation allows individuals to enter into a state-registered domestic partnership so long as the individuals meet certain criteria, such as sharing a common residence; being at least 18 years of age; being members of the same sex; or one person being at least 62 years of age. At the time the registry was created, state-registered domestic partnerships could be terminated by either party filing a notice of termination with the OSOS and paying the accompanying filing fee. The termination was effective after 90 days.

The 2007 legislation extended certain powers and rights available to spouses to domestic partners, such as health care facility visitation rights; ability to grant informed consent for

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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.

Same-sex domestic partners of public employees are eligible to participate in Public Employees Benefits Board (PEBB) insurance coverage. A certificate of domestic partnership issued to a same sex couple by the OSOS fulfills eligibility requirements for the same sex partner of the public employee to receive benefits.

In 2008 the Legislature enacted 2SHB 3104 which expanded the rights and responsibilities of domestic partners. The legislation amended statutes related to dissolutions; community property; estate planning; taxes; court process; service to indigent veterans and other public assistance; conflicts of interest for public officials; and guardianships.

Additionally, the termination process available to domestic partners was modified. To terminate a domestic partnership, a domestic partner must file a petition for dissolution in superior court and follow the same procedures applicable to dissolution of marriage. Parties may use a non-judicial termination process by filing a notice of termination with the OSOS if, at the time of filing notice, certain criteria are met, including neither party has minor children and neither party is pregnant; the domestic partnership is not more than five years in duration; the total fair market value of community assets is less than \$25,000 and neither party has separate property assets in excess of \$25,000.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): It is the intent of the Legislature that for all purposes under state law, state-registered domestic partners must be treated the same as married spouses.

Agencies must amend their rules to reflect the intent of the Legislature to ensure that all privileges, immunities, rights, benefits, or responsibilities granted or imposed by statute to an individual because that individual is or was a spouse in a marital relationship are granted or imposed on equivalent terms to an individual because that individual is or was in a state-registered domestic partnership.

The terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family are interpreted as applying equally to state-registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage apply equally to state-registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law.

Gender specific terms such as husband and wife used in any statute, rule, or other law are construed to be gender neutral, and applicable to individuals in state-registered domestic partnerships.

The non-judicial termination process available to domestic partners is repealed.

A certificate of domestic partnership issued by the OSOS fulfills eligibility requirements for the domestic partner of a public employee to receive benefits.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & ELECTIONS COMMITTEE (Recommended Substitute as Passed Committee): The substitute bill removes the reference to domestic partners in the definition of "marriage" in the statute dealing with sex offenses.

The requirement that agencies amend their rules is subject to the availability of funds and language is added stating that nonconforming rules are still valid.

The delayed effective date applies to the section amending the Basic Health Plan.

Appropriation: None.

Fiscal Note: Requested on January 27, 2009.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Sections 3-6, 67, 73, 81, 83-99, 103, 167, 169, and 184-186 take effect January 1, 2012. Sections 160 and 161 take effect August 1, 2009.

Staff Summary of Public Testimony as Heard in Committee: PRO: This bill is not marriage. The over 1,138 federal rights and protections granted to married couples will still be denied to same sex couples if this bill passes. This bill does not deny anyone their religious freedoms. No church or synagogue or other religious organization will be required to perform a marriage for anyone they do not want to marry. This bill does not deny anyone their right to free speech. This bill does not change existing adoption law in Washington State. This bill will not hurt small business. This bill is about security for families in a time of great insecurity.

Gay and lesbian families work hard, pay taxes, contribute to their communities and schools, and take care of their elderly parents and children. Gay and lesbian families are not responsible for the high rates of divorce in our state, nor do we have an agenda that will take away from any person's religious freedom. We can disagree without being disagreeable. If I were to die in the line of duty, my partner would not be treated as my spouse, he would be treated as though he had no relationship to me.

Same sex families need this bill to pass to provide protection for our families. I grew up in a traditional family with a mom and a dad. I'm a stay at home mom. I have been in a committed relationship for over ten years. I had a traditional marriage ceremony and I am involved with our children's school, with our family church, and I am married in the eyes of everyone in my family but not in the eyes of our state. It has been devastating to realize that my 20-year relationship with my partner receives no recognition from our state. My partner and I have been together for 21 years; we have raised a child together from birth to high school age and yet our family is not recognized as a family by our state or our country. We face constant legal challenges to fill out forms for our child, to receive health benefits from our employers, to help our child fill out scholarship forms for her college education. My employer does not recognize my partner as a spouse and I must pay a great deal more to provide health benefits for my partner than my co-workers who have a spouse.

Passage of this bill may directly impact the quality of people who are willing to move to this state. Young people favor this legislation. This legislation will equalize domestic partners with civil marriage. Registered domestic partners are buying homes, they are raising children. Registered domestic partners need legal protection. Currently, there exists a hodge-podge of legal rights for domestic partners that is very difficult to navigate. This bill will bring clarity and security. Let's move to be a society of inclusion, not exclusion. The City of Seattle strongly supports the human right of same sex couples to receive the same benefits under the law as received by married couples.

CON: As a citizen I am concerned that this bill will impose a value system on our public schools that is in conflict with my values and the values that I try to teach my children. My husband I should be the people who provide our child with her moral compass. We don't want our tax dollars to be used to teach our child values we don't agree with. We don't want our child to be taught that any sexual activity is acceptable as long as it is consensual, or that there is no difference between a man and a woman. I believe children should have a mother and a father. If the state insists on codifying these values, we will not lose our children to the schools, the schools will lose our children.

As same sex relationships are elevated in the law, there will be a clash between those who believe that marriage is between one man and one woman and those who do not. Those who do not have the same definition as that in this bill may be persecuted under the eyes of the law. Those who do not share the belief that same sex couples should be elevated to that of traditional marriage will be forced to adhere to a belief system they do not agree with. That is not religious freedom. All religions and 500 years of legal precedent support the traditional view of marriage. If our state elevates same sex relationships to the same level as traditional marriage it will be the death knell to public education. If you change our understanding of morality, if this bill passes, I will have to lead and encourage people of faith to leave the public education system. This bill is not about eliminating discrimination. This bill only removes the four discriminations in the law regarding marriage. The bill only removes the prohibition that a person not marry a person of the same sex. Traditional heterosexual marriage is the only form of marriage that produces children. Please don't open the door to state recognition of any form of relationship people may choose to enter. This bill will counterfeit marriage, devalue and cheapen our understanding of marriage. The value of marriage is reduced because anyone can marry and it means less.

People say this bill is preventing the discrimination against homosexuals. What about bisexuals? What is the purpose of this bill? No one seems to know how this bill will be interpreted if it passes. What will this bill actually do? What if two sailors want to get married so they can get a housing allowance? This bill will allow that. Is that the intent? Marriage exists for the greater good of the social order, not for the emotional satisfaction, affirmation, or validation of two individuals. Marriage should be upheld as an unchangeable standard as uniting a man and a woman for life. Homosexuals have the right to form meaningful relationships but do not have the right to redefine marriage for all of us.

Marriage is not only about children, it is also a long standing understanding between a man and a woman. A girl needs a mom to show her how to be a woman and a dad to admire her femininity. A boy needs a dad to show him how to be a man and a mom to nurture him.

Marriage is and should remain about two people who are different and come together in their differences to create a child. Children need input from both sexes to teach them about their world.

Same sex couples should be satisfied with the status quo. Enough is enough. It is unacceptable to me as a married person to be classified as being in a domestic partnership. Homosexual relationships will be taught in schools in health class and social studies. Those who knowingly enter into an activity that is counter cultural must expect difficulties and must deal with the additional paperwork that results and the people who don't agree with you. I have educated my children personally so they won't be exposed to what is taught in the schools. My children do not agree with same sex marriage. We don't hate but it's hard. I beg you to oppose this additional loss to traditional marriage.

This is a fiscally irresponsible bill. If this bill passes there will be immediate litigation. All major religions have rejected homosexual behavior. Biblical teachings condemn homosexual behaviors and this bill violates that. Our nation has been built on Judeo-Christian ethics and considers these relationships to be immoral. If we abandon this long held biblical definition of morality, have we then abandoned our high moral standards? What will be considered moral? To what will we then look to determine what is right and wrong, moral and immoral, just and unjust. Will we be a state and nation that is morally adrift. Government should remain neutral on the issue of gay marriage.

Persons Testifying: PRO: Senator Murray, prime sponsor; David Itemizer, Richard Lum, Patrick Nagle, citizens; Mark Johnson, Washington State Bar Association; Reverend Carol McKinley, Washington State Unitarian Universalist Voices for Justice; Michael Wrenn, Grethe Cammermeyer, Diane Divelbess, Amy Hollmon, David Cremeens, Larry DeGroen, Equal Rights Washington; Genesee Adkins, City of Seattle.

CON: Phillip Irvin, Margaret Reich, Bryant Adams, Steven L. Meacheam, Hugo Fleet, Rebecca Small, Arlene Noyes, Maria Lancaster, Ron Wesselins, Anne McDivitt, Molly Reich, citizens; Larry Stickney, Washington Values Alliance; Larry Kvaemme, Independent Volunteer; Daniel Meyer, State Worker; Pastor Roy Hartwell, Pastor Valerie Hartwell, Rivers of Glory Church; Gary Randall, Faith & Freedom Network; Orville Andvik, Westgate Chapel/citizen; Tom Walker, University of Washington College Republicans; Ron Boehme, Youth with a Mission; Pat Coffey, Orting Community Baptist Church; Timothy G. Miller, Mary Coday, Denise Holland, citizens; Linda Sue Hole, Self & Family; Kim Sheley, Washington State Catholic Conference; Austin Nimocks, Alliance Defense Fund; Maureen Richardson, Concerned Women for America of Washington; Diana McAlister, Mother; Valerie Vicknail, Women of the City; Peter Kulavevick, Harvest Church; Josph Backholm, Family Policy Institute of Washington.