

ESSB 6239 - H AMD 910

By Representative Rodne

FAILED 02/08/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 26.04.010 and 1998 c 1 s 3 are each amended to read
4 as follows:

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

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

13 (3) Where necessary to implement the rights and responsibilities
14 of spouses under the law, gender specific terms such as husband and
15 wife used in any statute, rule, or other law must be construed to be
16 gender neutral and applicable to spouses of the same sex.

17 (4) No regularly licensed or ordained minister or any priest,
18 imam, rabbi, or similar official of any religious organization is
19 required to solemnize or recognize any marriage. A regularly licensed
20 or ordained minister or any priest, imam, rabbi, or similar official
21 of any religious organization shall be immune from any civil claim or
22 cause of action based on a refusal to solemnize or recognize any
23 marriage under this section. No state agency or local government may
24 base a decision to penalize, withhold benefits from, license, or
25 refuse to contract with any religious organization on the opposition
26 of or refusal of a person associated with such religious organization
27 to solemnize or recognize a marriage under this section.

1 (5) No religious organization is required to provide
2 accommodations, facilities, advantages, privileges, services, or goods
3 related to the solemnization, celebration, or recognition of a
4 marriage.

5 (6) A religious organization is immune from any civil claim or
6 cause of action, including a claim pursuant to chapter 49.60 RCW,
7 based on its refusal to provide accommodations, facilities,
8 advantages, privileges, services, or goods related to the
9 solemnization, recognition, or celebration of a marriage.

10 (7) For purposes of this section:

11 (a) "Recognize" or "recognition" means to provide religious-based
12 services that:

13 (i) Are delivered by a religious organization, or by an individual
14 who is managed, supervised, or directed by a religious organization;
15 and

16 (ii) Are designed for married couples or couples engaged to marry
17 and are directly related to solemnizing, celebrating, strengthening,
18 or promoting a marriage, such as religious counseling programs,
19 courses, retreats, and workshops.

20
21 **Sec. 2.** RCW 26.04.020 and 1998 c 1 s 4 are each amended to read
22 as follows:

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

24 (a) When either party thereto has a (~~wife or husband~~) spouse or
25 registered domestic partner living at the time of such marriage,
26 unless the registered domestic partner is the other party to the
27 marriage; or

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

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

32 (2) It is unlawful for any (~~man to marry his father's sister,~~
33 ~~mother's sister, daughter, sister, son's daughter, daughter's~~
34 ~~daughter, brother's daughter or sister's daughter; it is unlawful for~~

1 ~~any woman to marry her father's brother, mother's brother, son,~~
2 ~~brother, son's son, daughter's son, brother's son or sister's son))~~
3 person to marry his or her sibling, child, grandchild, aunt, uncle,
4 niece, or nephew.

5 (3) A marriage between two persons that is recognized as valid in
6 another jurisdiction is valid in this state only if the marriage is
7 not prohibited or made unlawful under subsection (1)(a)(~~(1)(e)~~),
8 or (2) of this section.

9 (4) A legal union, other than a marriage, between two individuals
10 that was validly formed in another state or jurisdiction and that
11 provides substantially the same rights, benefits, and responsibilities
12 as a marriage, does not prohibit those same two individuals from
13 obtaining a marriage license in Washington.

14 (5) No state agency or local government may base a decision to
15 penalize, withhold benefits from, license, or refuse to contract with
16 any religious organization based on the opposition to or refusal of a
17 person associated with such religious organization to provide
18 accommodations, facilities, advantages, privileges, services, or goods
19 related to the solemnization, recognition, or celebration of a
20 marriage.

21 (6) No religiously affiliated educational institution is required
22 to provide accommodations, facilities, advantages, privileges,
23 services, or goods related to the solemnization, recognition, or
24 celebration of a marriage, including the use of any campus chapel or
25 church. A religiously affiliated educational institution is immune
26 from any civil claim or cause of action, including a claim pursuant to
27 chapter 49.60 RCW, based on its refusal to provide accommodations,
28 facilities, advantages, privileges, services, or goods related to the
29 solemnization, recognition, or celebration of a marriage.

30
31 NEW SECTION. Sec. 3. A new section is added to chapter 26.04 RCW
32 to read as follows: "Religious organization" as defined in this
33 chapter must be interpreted liberally to include faith-based social
34

1 service organizations involved in social services directed at the
2 larger community.

3
4 **Sec. 4.** RCW 26.04.050 and 2007 c 29 s 1 are each amended to read
5 as follows:

6 The following named officers and persons, active or retired, are
7 hereby authorized to solemnize marriages, to wit: Justices of the
8 supreme court, judges of the court of appeals, judges of the superior
9 courts, supreme court commissioners, court of appeals commissioners,
10 superior court commissioners, any regularly licensed or ordained
11 minister or any priest, imam, rabbi, or similar official of any
12 ~~((church or))~~ religious ~~((denomination))~~ organization, and judges of
13 courts of limited jurisdiction as defined in RCW 3.02.010.

14
15 **Sec. 5.** RCW 26.04.060 and 1975-'76 2nd ex.s. c 42 s 25 are each
16 amended to read as follows:

17 A marriage solemnized before any person professing to be a
18 minister or a priest ~~((of any))~~, imam, rabbi, or similar official of
19 any religious ~~((denomination))~~ organization in this state or
20 professing to be an authorized officer thereof, is not void, nor shall
21 the validity thereof be in any way affected on account of any want of
22 power or authority in such person, if such marriage be consummated
23 with a belief on the part of the persons so married, or either of
24 them, that they have been lawfully joined in marriage.

25
26 **Sec. 6.** RCW 26.04.070 and Code 1881 s 2383 are each amended to
27 read as follows:

28 In the solemnization of marriage no particular form is required,
29 except that the parties thereto shall assent or declare in the
30 presence of the minister, priest, imam, rabbi, or similar official of
31 any religious organization, or judicial officer solemnizing the same,
32 and in the presence of at least two attending witnesses, that they
33 take each other to be ~~((husband and wife))~~ spouses.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 26.04 RCW
2 to read as follows:

3 For purposes of this chapter, "religious organization" includes,
4 but is not limited to, churches, mosques, synagogues, temples,
5 nondenominational ministries, interdenominational and ecumenical
6 organizations, mission organizations, faith-based social agencies, and
7 other entities whose principal purpose is the study, practice, or
8 advancement of religion.

9
10 **Sec. 8.** RCW 26.60.010 and 2007 c 156 s 1 are each amended to read
11 as follows:

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

21 ~~((The legislature finds that same sex couples, because they cannot
22 marry in this state, do not automatically have the same access that
23 married couples have to certain rights and benefits, such as those
24 associated with hospital visitation, health care decision-making,
25 organ donation decisions, and other issues related to illness,
26 incapacity, and death. Although many of these rights and benefits may
27 be secured by private agreement, doing so often is costly and
28 complex.))~~

29 The legislature ~~((also))~~ finds that the public interest would be
30 served by extending rights and benefits to ~~((different-sex))~~ couples
31 in which either or both of the partners ~~((is))~~ are at least sixty-two
32 years of age. While these couples are entitled to marry under the
33 state's marriage statutes, some social security and pension laws
34 nevertheless make it impractical for these couples to marry. For this

1 reason, chapter 156, Laws of 2007 specifically allows couples to enter
2 into a state registered domestic partnership if one of the persons is
3 at least sixty-two years of age, the age at which many people choose
4 to retire and are eligible to begin collecting social security and
5 pension benefits.

6 The rights granted to state registered domestic partners in
7 chapter 156, Laws of 2007 will further Washington's interest in
8 promoting family relationships and protecting family members during
9 life crises. Chapter 156, Laws of 2007 does not affect marriage or
10 any other ways in which legal rights and responsibilities between two
11 adults may be created, recognized, or given effect in Washington.

12
13 **Sec. 9.** RCW 26.60.030 and 2007 c 156 s 4 are each amended to read
14 as follows:

15 To enter into a state registered domestic partnership the two
16 persons involved must meet the following requirements:

17 (1) Both persons share a common residence;
18 (2) Both persons are at least eighteen years of age and at least
19 one of the persons is sixty-two years of age or older;

20 (3) Neither person is married to someone other than the party to
21 the domestic partnership and neither person is in a state registered
22 domestic partnership with another person;

23 (4) Both persons are capable of consenting to the domestic
24 partnership; and

25 (5) Both of the following are true:
26 (a) The persons are not nearer of kin to each other than second
27 cousins, whether of the whole or half blood computing by the rules of
28 the civil law; and

29 (b) Neither person is a sibling, child, grandchild, aunt, uncle,
30 niece, or nephew to the other person(~~and~~

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

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1 NEW SECTION. **Sec. 10.** A new section is added to chapter 26.60
2 RCW to read as follows:

3 (1) Partners in a state registered domestic partnership may apply
4 and receive a marriage license and have such marriage solemnized
5 pursuant to chapter 26.04 RCW, so long as the parties are otherwise
6 eligible to marry, and the parties to the marriage are the same as the
7 parties to the state registered domestic partnership.

8 (2) A state registered domestic partnership is dissolved by
9 operation of law by any marriage of the same parties to each other, as
10 of the date of the marriage stated in the certificate.

11 (3)(a) Except as provided in (b) of this subsection, any state
12 registered domestic partnership in which the parties are the same sex,
13 and neither party is sixty-two years of age or older, that has not
14 been dissolved or converted into a marriage by the parties by June 30,
15 2014, is automatically merged into a marriage and is deemed a marriage
16 as of June 30, 2014.

17 (b) If the parties to a state registered domestic partnership have
18 proceedings for dissolution, annulment, or legal separation pending as
19 of June 30, 2014, the parties' state registered domestic partnership
20 is not automatically merged into a marriage and the dissolution,
21 annulment, or legal separation of the state registered domestic
22 partnership is governed by the provisions of the statutes applicable
23 to state registered domestic partnerships in effect before June 30,
24 2014. If such proceedings are finalized without dissolution,
25 annulment, or legal separation, the state registered domestic
26 partnership is automatically merged into a marriage and is deemed a
27 marriage as of June 30, 2014.

28 (4) For purposes of determining the legal rights and
29 responsibilities involving individuals who had previously had a state
30 registered domestic partnership and have been issued a marriage
31 license or are deemed married under the provisions of this section,
32 the date of the original state registered domestic partnership is the
33 legal date of the marriage. Nothing in this subsection prohibits a
34 different date from being included on the marriage license.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 26.04
2 RCW to read as follows:

3 If two persons in Washington have a legal union, other than a
4 marriage, that:

5 (1) Was validly formed in another state or jurisdiction;

6 (2) Provides substantially the same rights, benefits, and
7 responsibilities as a marriage; and

8 (3) Does not meet the definition of domestic partnership in RCW
9 26.60.030,

10 then they shall be treated as having the same rights and
11 responsibilities as married spouses in this state, unless:

12 (a) Such relationship is prohibited by RCW 26.04.020 (1)(a) or
13 (2); or

14 (b) They become permanent residents of Washington state and do not
15 enter into a marriage within one year after becoming permanent
16 residents.

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18 **Sec. 12.** RCW 26.60.090 and 2011 c 9 s 1 are each amended to read
19 as follows:

20 A legal union, other than a marriage, of two persons (~~(of the same~~
21 ~~sex~~)) that was validly formed in another jurisdiction, and that is
22 substantially equivalent to a domestic partnership under this chapter,
23 shall be recognized as a valid domestic partnership in this state and
24 shall be treated the same as a domestic partnership registered in this
25 state regardless of whether it bears the name domestic partnership.

26

27 **Sec. 13.** RCW 1.12.080 and 2011 c 9 s 2 are each amended to read
28 as follows:

29 For the purposes of this code and any legislation hereafter
30 enacted by the legislature or by the people, with the exception of
31 chapter 26.04 RCW, the terms spouse, marriage, marital, husband, wife,
32 widow, widower, next of kin, and family shall be interpreted as
33 applying equally to state registered domestic partnerships or
34 individuals in state registered domestic partnerships as well as to

1 marital relationships and married persons, and references to
2 dissolution of marriage shall apply equally to state registered
3 domestic partnerships that have been terminated, dissolved, or
4 invalidated, unless the legislation expressly states otherwise and to
5 the extent that such interpretation does not conflict with federal
6 law. Where necessary to implement chapter 521, Laws of 2009 and this
7 act, gender-specific terms such as husband and wife used in any
8 statute, rule, or other law shall be construed to be gender neutral,
9 and applicable to individuals in state registered domestic
10 partnerships and spouses of the same sex.

11
12 NEW SECTION. **Sec. 14.** A new section is added to chapter 26.33
13 RCW to read as follows:

14 Nothing contained in chapter . . ., Laws of 2012 (this act) shall
15 be construed to alter or affect existing law regarding the manner in
16 which a religious or nonprofit organization may be licensed to and
17 provide adoption, foster care, or other child-placing services under
18 this chapter or chapter 74.15 or 74.13 RCW.

19
20 NEW SECTION. **Sec. 15.** A new section is added to chapter 74.13
21 RCW to read as follows:

22 Nothing contained in chapter . . ., Laws of 2012 (this act) shall
23 be construed to alter or affect existing law regarding the manner in
24 which a religious or nonprofit organization may be licensed to and
25 provide adoption, foster care, or other child-placing services under
26 this chapter or chapter 74.15 or 26.33 RCW.

27
28 NEW SECTION. **Sec. 16.** A new section is added to chapter 74.15
29 RCW to read as follows:

30 Nothing contained in chapter . . ., Laws of 2012 (this act) shall
31 be construed to alter or affect existing law regarding the manner in
32 which a religious or nonprofit organization may be licensed to and
33 provide adoption, foster care, or other child-placing services under
34 this chapter or chapter 74.13 or 26.33 RCW.

1 NEW SECTION. **Sec. 17.** (1) Within sixty days after the effective
2 date of this section, the secretary of state shall send a letter to
3 the mailing address on file of each same-sex domestic partner
4 registered under chapter 26.60 RCW notifying the person that
5 Washington's law on the rights and responsibilities of state
6 registered domestic partners will change in relation to certain same-
7 sex registered domestic partners.

8 (2) The notice must provide a brief summary of the new law and
9 must clearly state that provisions related to certain same-sex
10 registered domestic partnerships will change as of the effective dates
11 of this act, and that those same-sex registered domestic partnerships
12 that are not dissolved prior to June 30, 2014, will be converted to
13 marriage as an act of law.

14 (3) The secretary of state shall send a second similar notice to
15 the mailing address on file of each domestic partner registered under
16 chapter 26.60 RCW by May 1, 2014.

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18 NEW SECTION. **Sec. 18.** Sections 8 and 9 of this act take effect
19 June 30, 2014, but only if all other provisions of this act are
20 implemented."

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EFFECT: (1) Provides an exemption and immunity to religious
organizations for refusing to provide accommodations, facilities,
advantages, privileges, services, or goods related to "the
solemnization, recognition, or celebration" of a marriage, rather
than the "solemnization or celebration of a marriage."
(2) Provides that a state agency or local government may not base a
decision to penalize, withhold benefits from, license, or refuse to
contract with a religious organization based on "the opposition of
or refusal of" (rather than just "refusal of") a person associated
with that organization to solemnize or recognize a marriage. (3)
Makes technical corrections to remove a duplicative definition,
codify section 3, and remove extra words inadvertently left in.

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