

HOUSE BILL REPORT

HB 2516

As Reported by House Committee On: Judiciary

Title: An act relating to providing equal protection for all families in Washington by creating equality in civil marriage and changing the domestic partnership laws, while protecting religious freedom.

Brief Description: Concerning civil marriage and domestic partnerships.

Sponsors: Representatives Pedersen, Walsh, Moeller, Jinkins, Tharinger, Upthegrove, Van De Wege, Seaquist, McCoy, Billig, Morris, Carlyle, Darneille, Ladenburg, Maxwell, Moscoso, Stanford, Fitzgibbon, Pollet, Hudgins, Finn, Eddy, Springer, Ormsby, Wylie, Goodman, Appleton, Pettigrew, Takko, Roberts, Ryu, Cody, Hasegawa, Hunter, Hunt, Haigh, Lytton, Santos, Orwall, Hansen, Sullivan, Kenney, Reykdal, Dickerson, Kagi, Sells, Clibborn, Dunshee, Lias and Chopp; by request of Governor Gregoire.

Brief History:

Committee Activity:

Judiciary: 1/23/12, 1/30/12 [DPS].

Brief Summary of Substitute Bill

- Allows couples of the same sex to marry.
- Provides an exemption for religious organizations regarding solemnizing a marriage and providing accommodations, goods, and services related to the solemnization or celebration of a marriage.
- Provides that a state registered domestic partnership in which the parties are the same sex and under the age of 62 will be merged into a marriage as of June 30, 2014, unless the parties marry or dissolve their domestic partnership before that date.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Eddy, Hansen, Kirby, Orwall and Roberts.

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

Minority Report: Do not pass. Signed by 6 members: Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Klippert, Nealey and Rivers.

Staff: Trudes Tango (786-7384).

Background:

Marriage.

Marriage is a civil contract between a male and a female who have each attained the age of 18 years and who are otherwise capable. A marriage between persons other than a male and a female is prohibited. Judges, court commissioners, and any regularly licensed or ordained minister or any priest of any church or religious denomination may solemnize marriages.

State Registered Domestic Partnerships.

To enter into a state registered domestic partnership the two persons must either be members of the same sex or at least one of the persons is 62 years old or older. For all purposes under state law, registered domestic partners must be treated the same as married persons. Terms such as spouse, marriage, husband, and wife must be interpreted to apply equally to registered domestic partners as to married persons, to the extent the interpretation does not conflict with federal law. The Office of the Secretary of State administers the domestic partnership registry.

Summary of Substitute Bill:

Marriage.

Marriage is a civil contract between two persons. The prohibition against marriage when the parties are persons other than a male and a female is removed. The list of persons authorized to solemnize a marriage is amended to specify imams, rabbis, and other similar officials of any church or religious denomination.

Religious Exemption.

No religious organization is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage. A religious organization is immune from any civil claim or cause of action, including claims under the law against discrimination, for refusing to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

No regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any church or religious denomination is required to solemnize any marriage. A regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any church or religious denomination is immune from any civil claim or cause of action based on his or her refusal to solemnize any marriage. A state agency or local government may not base a decision to penalize, withhold benefits from, or refuse to contract with any church or

religious denomination on the refusal of a person associated with that church or religious denomination to solemnize a marriage.

"Religious organization" includes, but is not limited to, churches, synagogues, mosques, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

State Registered Domestic Partnerships.

To enter into a state registered domestic partnership at least one of the persons must be 62 years of age or older. Thus, a couple of the same sex may not enter into a registered domestic partnership unless at least one of the persons is 62 years old or older.

State registered domestic partners may apply and receive marriage licenses as long as the parties are otherwise eligible to marry and the parties to the marriage are the same as the parties to the domestic partnership. Marriage of the parties dissolves the domestic partnership.

Any state registered domestic partnership in which the parties are the same sex and neither party is 62 years old or older will be automatically merged into a marriage as of June 30, 2014, if the parties have not already married or entered into dissolution as of that date.

Reciprocity.

If two persons in Washington have a legal union, other than a marriage, that was validly formed in another jurisdiction, that provides substantially the same rights and responsibilities as a marriage, and that does not meet the definition of a state registered domestic partnership in Washington, then that legal union will be treated as having the same rights and responsibilities as married spouses in Washington. However, this reciprocity does not apply if the relationship would otherwise be prohibited under Washington's marriage statutes or if the two persons become permanent residents of Washington and do not marry within one year of becoming permanent residents.

A legal union, other than a marriage, of two persons validly formed in another jurisdiction that is substantially equivalent to a state registered domestic partnership in Washington will be recognized in Washington as a registered domestic partnership.

Notice.

The Secretary of State must send two notices to same sex registered domestic partners notifying them of the changes in the law, one within 60 days after the legislation's effective date and the second by May 1, 2014. The notice must clearly state that laws governing same sex registered domestic partners will change and that same sex registered domestic partnerships that are not dissolved prior to June 30, 2014, will be converted to marriage.

Substitute Bill Compared to Original Bill:

The original bill provided an exemption for religious organizations unless the organization offered admission, occupancy, or accommodations or facilities to the public for a fee, or

offered advantages, privileges, services, or goods to the public for sale. The original bill did not define "religious organization."

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 8 and 9, relating to eligibility of persons to enter into registered domestic partnerships, which take effect June 30, 2014, but only if all other provisions of the act are implemented.

Staff Summary of Public Testimony:

(In support) The bill is about how the government will treat families. It is not about how any church will have to treat a family. The bill contains strong language to protect communities of faith to make their own decisions on which marriages to recognize. There is no reason the state should continue to put a different label on loving relationships. "Separate but equal" is not equal. Marriage provides universally understood legal protections. Being domestically partnered sounds more like a business plan. The term does not reflect the true loving family that exists. Even with proof of a domestic partnership registration, the term is still not understood in the health care industry. The Governor believes it is time to give same sex couples the right to receive a marriage license. The bill makes it clear that the state will honor the religious freedom of all faiths. The bill gives same sex couples the ability to be respected as equals. There are many gay and lesbian couples in military service who serve the state and country. Same sex couples want the dignity of being married. It is frustrating to know that gays and lesbians are treated as if they were second class. The Bible values lifelong monogamous relationships and the state should encourage building those relationships. Same sex couples in committed life-long relationships should be able to name their relationships for what they are – marriage. The children of same sex couples should be able to tell their peers that their parents are married. Church pastors who do not want to discriminate against gays and lesbians are forced to discriminate even though the church is about love. Pastors can still decide who they want to marry under the bill. This is about equality and justice and fairness for all workers and all people.

(Opposed) The domestic partnership laws are discriminatory and should never have been passed. The bill deprives churches the rights given to them in the state and federal Constitutions and destroys freedom of association and the free practice of religion. If churches make anything available to the public, they could be sued. The bill weighs the privileges of a small percentage of Washingtonians and pits them against the vast majority of the state who consider themselves religious. What homosexuals have gone through is nothing like what African Americans have gone through. The bill is saying God is too narrow-minded. This will lead to polygamy. Changing the definition of marriage will mean there will be no foundation to say "no" to anyone else. The bill has a hostile statement about people being discriminatory when really they are just religious. The bill will force faith-based foster care and adoption providers to shut their doors. There is no protection for a

small business owner to decline doing business for religious reasons. Marriage is not about the government placing its stamp of approval on any two people who have a loving relationship. Government's interest in marriage is very narrow, and it is for the children, who are the product of the relationship between men and women. Those who want to redefine marriage are focused on their own satisfaction; those opposed are concerned with the children. There is a very real biological and psychological difference between mothers and fathers and it's appropriate to treat those relationships differently. This social experimentation will cause misery. Same sex couples do not procreate, so marriage will become the vehicle that separates the children from one of their biological parents. The union of one man and one woman was established in the Bible. Nobody will be safe when the government goes against the laws of the Bible and laws of nature. Before making this change, there must be a better understanding about what the impacts will be on everyone.

Persons Testifying: (In support) Representative Pedersen, prime sponsor; Eric Pedersen; Jim Justin, Governor's Office; Pablo Monroy, Service Members United; Jean Scribner; Brennan Smith-Mosel; Katherine Bachy; Peg Giffels; Ariana Bachy-Giffels; Rabbi Seth Goldstein; Bishop Chris Boerger, Evangelical Lutheran Church of America; Doug Exworthy; Gina Anderson; Matthew Burgess; Wendy Rader Konofalski, Washington Education Association; Ann Eidson; Marian Stewart, Northlake Unitarian Universalist Church; and Sarah Charin, United Food and Commercial Workers Local 21.

(Opposed) Stephen Pidgeon; Ken Hutcherson, Antioch Bible Church; Steve O'Ban; Austin Nimocks, Alliance Defense Fund; Christopher Plante, National Organization of Marriage; Jennifer Morse, Ruth Institute; Greg Hamilton, Seveth-Day Adventist Church of Washington; Dan Folden and Marshall McKean, New Heights Christian Church; Bill Wells, Beginning Christian Church; Daniel Grether; Mary Gillmore, Thomas Jefferson Center for Constitutional Restoration; and Corrine Keith, Personal Promise Bible.

Persons Signed In To Testify But Not Testifying: More than 20 persons signed in. Please see committee staff for information.