

Domestic Partnership

Overview

In our state's Defense of Marriage Act (DOMA), the Legislature declared that Washington has a compelling state interest in reaffirming its historical commitment to the institution of marriage as a union between a man and a woman as husband and wife, and in protecting that institution. The primary purpose of marriage has been to create a distinct kind of social and legal relationship for the mutual purpose of founding and maintaining a family. The family unit is the essential foundation of a stable and healthy society, uniquely designed as the most favorable environment for the procreation and rearing of children. Thus the state has always promoted and favored mother-father couples by providing legal benefits, privileges and rights that encourage opposite-sex couples to get married and to remain married, despite isolated cases of infertility or personal choices to not have children.

Legislative History

In 2007, the Legislature passed SSB 5536 that created a domestic partnership registry in the Office of the Secretary of State. The bill SSB 5336 amended 22 statutes that formerly just referenced spouses by adding in the term "domestic partners." Domestic partnerships were defined as two persons of the same sex or two persons of the opposite sex who were not married and where one partner was at least 62 years old.

Although almost all of the benefits under SSB 5336 were already available to homosexual couples and unmarried heterosexual couples by entering into private arrangements such as durable powers of attorney, living trusts, wills, and contracts, the bill provided certain rights to state registered domestic partners to the same extent those rights are provided to legally married spouses. Some of the rights of legally married spouses extended to domestic partners were in areas related to health care, death, non-probate assets and power of attorney. The bill also provided that domestic partners of state employees would receive all benefits provided to legally married spouses, including health care insurance (PEBB benefits).

In 2008 the Legislature greatly expanded upon SSB 5336 from 2007 by passing 2SHB 3104. 2SHB 3104 amended 168 additional statutes that formerly just referenced spouses by adding in the term "domestic partners." The bill gave state registered domestic partners certain rights and responsibilities currently given to marital spouses in areas of law dealing with dissolution, community property, estate planning, taxes, court process, services to indigent veterans and other public assistance, and guardianships, and provided that procedures under the Uniform Interstate Family Support Act (UIFSA) that applied to marital spouses and former spouses also applied to "domestic partners."

Issues and Outlook

Domestic partnership laws represent an ongoing and dramatic change in the types of legal relationships our state recognizes regarding the historic status of marriage as a unique relationship between a man and a woman. In fact, the sponsors and supporters of domestic partnership legislation openly admit that such laws are a first step toward "gay marriage."

Both years House Republicans tried to amend each bill to add a referendum clause requiring a vote of the people for adoption or rejection of domestic partner legislation at the general election but the amendments were rejected.

Another bill in 2009 like 2SHB 3104 and domestic partners will have all the exact same legal incidents of legally married spouses but without the name "marriage. The California state supreme court, primarily based on the fact that homosexuals already had the same legal rights and responsibilities of lawfully married opposite sex couples under their state's civil union law, recently ruled that homosexual couples must, therefore, be allowed to marry under their state's marriage laws. If domestic partners can gain full equality of spousal rights here in Washington through domestic partnership legislation it is almost certain that a lawsuit will soon follow asking out state's courts to require they be lawfully married under Washington's marriage law.