



Summary of Referendum Measure No. 74

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Referendum Measure No. 74. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

BRIEF SUMMARY

- Allows couples of the same sex to marry.
- Provides certain exemptions and immunity for religious organizations, religiously-affiliated educational institutions, and ministers, priests, imams, rabbis, and similar officials of religious organizations.
- Provides that state registered domestic partnerships in which the parties are the same sex and under the age of 62 will be merged into civil marriages as of June 30, 2014, unless the parties marry or commence dissolution proceedings of their domestic partnerships before that date.

BACKGROUND

Referendum Measure No. 74

Laws passed by the Legislature are subject to the referendum process (except for emergency legislation). The sponsor of a referendum measure must collect a sufficient number of signatures on a petition to have a law become a referendum measure. If enough signatures are collected, the Secretary of State certifies the referendum measure, and the law is placed on the ballot. The voters are asked to approve or reject the law passed by the Legislature.

Referendum Measure No. 74 was certified for the ballot on June 13, 2012. The ballot title and ballot measure summary prepared by the Attorney General, and amended by court order on March 13, 2012, are as follows:

Ballot Title

The legislature passed Engrossed Substitute Senate Bill 6239 concerning marriage for same-sex couples, modified domestic-partnership law, and religious freedom, and voters have filed a sufficient referendum petition on this bill.

This bill would allow same-sex couples to marry, preserve domestic partnerships only for seniors, and preserve the right of clergy or religious organizations to refuse to perform, recognize, or accommodate any marriage ceremony.

Should this bill be: Approved [] Rejected []

Ballot Measure Summary

This bill allows same-sex couples to marry, applies marriage laws without regard to gender, and specifies that laws using gender-specific terms like husband and wife include same-sex spouses. After 2014, existing domestic partnerships are converted to marriages, except for seniors. It preserves the right of clergy or religious organizations to refuse to perform or recognize any marriage or accommodate wedding ceremonies. The bill does not affect licensing of religious organizations providing adoption, foster-care, or child-placement.

Marriage

Under current state law, 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. A marriage between two persons that is recognized as valid in another jurisdiction is valid in Washington if the marriage is not otherwise prohibited under state law.

Judges, court commissioners, and regularly licensed or ordained ministers and priests of any church or religious denomination may solemnize marriages.

State Registered Domestic Partnerships

Two types of couples may enter into state registered domestic partnerships: Opposite sex couples in which at least one person is 62 years of age or older and same-sex couples. For all purposes under state law, state registered domestic partners must be treated the same as married persons. Terms in the statutes such as spouse, marriage, husband, and wife must be interpreted to apply equally to state registered domestic partners as to married persons, to the extent the interpretation does not conflict with federal law.

A legal union of two persons of the same sex that was validly formed in another jurisdiction and that is substantially equivalent to a state registered domestic partnership is recognized as a valid state registered domestic partnership in Washington.

The Office of the Secretary of State administers the domestic partnership registry.

SUMMARY

Marriage

Under Referendum Measure No. 74, 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 specifically include imams, rabbis, and other similar officials of any religious organization.

Exemptions and Immunity

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

No religious organization or religiously-affiliated educational institution is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

A religious organization or religiously-affiliated educational institution is immune from a civil claim or cause of action, including a claim under the law against discrimination, based on its refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

No state agency or local government may base a decision to penalize, withhold benefits from, license, or refuse to contract with a religious organization on the organization's opposition to or refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

For purposes of the exemptions and immunities, the term "recognize" means to provide religious-based services that are: (1) delivered by a religious organization or by an individual who is managed, supervised, or directed by a religious organization; and (2) designed for married couples or couples engaged to be married and directly related to solemnizing, celebrating, strengthening, or promoting a marriage, such as religious counseling programs, courses, retreats, and workshops.

The term "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. "Religious organization" must be interpreted liberally to include faith-based social service organizations involved in social services directed at the larger community.

Nothing in Referendum Measure No. 74 shall be construed to alter or affect existing law regarding the manner in which a religious or nonprofit organization may be licensed to provide adoption, foster care, or other child-placing services under the adoption and foster care statutes.

State Registered Domestic Partnerships

As of June 30, 2014, the eligibility requirements for state registered domestic partnerships are revised. A couple is eligible to enter into a state registered domestic partnership only if at least one of the parties is 62 years of age or older. Thus, state registered domestic partnerships are no longer available to couples of the same sex who are under the age of 62.

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 state registered domestic partnership.

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

Reciprocity

The parties to certain legal unions formed in other jurisdictions are treated as having the same rights and responsibilities as married spouses under state law. This reciprocity applies if the relationship is a legal union other than marriage, was validly formed in another jurisdiction, provides substantially the same rights and responsibilities as marriage, and does not meet the definition of a state registered domestic partnership. This reciprocity does not apply if the relationship is otherwise 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 is recognized as a state 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 the state law 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.

Effective Date: The measure takes effect 30 days after the election at which it is approved, except sections 8 and 9, relating to the merger of certain state registered domestic partnerships into civil marriages, which take effect June 30, 2014.

Staff Contact: Trudes Tango (786-7384)

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 1185. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.