



June 13, 2012

## SUMMARY OF REFERENDUM 74

Concerning civil marriage and domestic partnerships.

*This summary has been prepared in response to specific questions about the provisions and effects of Referendum 74 and is provided for legislative purposes only; it is **not** provided as an expression for or against the ballot measure. Please remember that it is inappropriate to use public resources to support or oppose a ballot measure. Please refer to pages 8 and 9 of the 2011 Legislative Ethics Manual or contact Senate Counsel for further guidance on when and how commenting on ballot measures is appropriate.*

### **BRIEF SUMMARY**

ESSB 6239 allows same-sex couples to marry, applies marriage laws without regard to gender, and specifies that laws using gender-specific terms such as husband and wife include same-sex spouses. After June 30, 2014, existing domestic partnerships are converted to marriages, except for senior citizens, aged 62 or older. ESSB 6239 preserves the right of clergy or religious organizations to refuse to perform or recognize any marriage or to accommodate wedding ceremonies. The bill does not affect the licensing of religious organizations providing adoption, foster care, or child placement services.

### **BACKGROUND**

#### Defense of Marriage Act

In 1998 the Legislature amended the marriage statutes to provide that marriage is a civil contract between a man and a woman, explicitly stating that marriage between persons other than a male and a female is prohibited.

#### State-Registered Domestic Partners

Same sex couples, and opposite sex couples in which one person is at least 62 years of age or older, may enter into state-registered domestic partnerships. 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 that interpretation does not conflict with federal law.

#### Reciprocity

A legal union of two persons of the same sex that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership, must be recognized as a valid domestic partnership in Washington and must be treated as a domestic partnership registered in Washington, regardless of whether it bears the name "domestic partnership."

## ESSB 6239

### *Marriage*

Marriage is a civil contract between two persons who are at least 18 years old and are otherwise capable. A person cannot marry if that person has a spouse or registered domestic partner living at the time of such marriage, unless the registered domestic partner is the other party to the marriage.

The list of officers and persons, active or retired, who are authorized to solemnize marriages is amended to include imams, rabbis, or similar officials of any religious organization.

### *Religious Exemption*

No regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization is required to solemnize or recognize any marriage.

A regularly licensed or ordained minister or priest, imam, rabbi, or similar official of any religious organization is immune from any civil claim or cause of action based on a refusal to solemnize or recognize any marriage.

No state agency or local government may make a decision to penalize, withhold benefits from, or refuse to contract with any religious organization based upon the refusal of a person associated with such religious organization to solemnize or recognize a marriage.

No religious organization is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of marriage.

A religious organization is immune from any civil claim or cause of action, including a claim pursuant to RCW 49.60, the state 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.

The term "recognize" is defined as providing religious-based services that:

- are delivered by a religious organization, or by an individual who is managed, supervised, or directed by a religious organization; and
- are designed for married couples or couples engaged to marry and are 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, mosques, synagogues, 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 service directed at the larger community. Religious-based educational institutions are not required to provide

accommodations, facilities, advantages, privileges, service, or goods related to the solemnization or celebration of a marriage.

Nothing in this act must 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.

#### *Domestic Partnerships*

To enter into a state-registered domestic partnership the two persons must share a common residence, must be at least 18 years old, and one of the persons must be at least 62 years old.

Partners in a state-registered domestic partnership may apply and receive a marriage license and have such marriage solemnized so long as the parties are otherwise eligible to marry, and the parties to the marriage are the same as the parties to the state-registered domestic partnership. A state-registered domestic partnership is dissolved by operation of law by any marriage of the same parties to each other, as of the date of the marriage stated in the certificate.

Any state-registered domestic partnership in which the parties are the same sex, and neither party is at least 62 years old, that has not been dissolved or converted into marriage by the parties by June 30, 2014, is automatically merged into a marriage as of June 30, 2014.

If the parties to a state-registered domestic partnership have proceedings for dissolution, annulment, or legal separation pending as of June 30, 2014, the parties are not automatically merged into marriage and the dissolution, annulment, or legal separation of the state-registered domestic partnership must be governed by the statutes applicable to state-registered domestic partnerships in effect prior to June 30, 2014.

For the purposes of determining the legal rights and responsibilities involving individuals who had previously had a state-registered domestic partnership and have been issued a marriage license or are deemed married, the date of the original state-registered domestic partnership is the legal date of the marriage.

#### *Reciprocity*

If two persons in Washington have a legal union, other than a marriage, that was validly formed in another state or jurisdiction and that union provides substantially the same rights, benefits, and responsibilities as a marriage but does not meet the definition of domestic partnership, then the parties must be treated as having the same rights and responsibilities as married spouses in this state unless the relationship is otherwise prohibited by law or the parties become permanent residents of Washington and do not marry within one year after becoming permanent residents.

A legal union, other than a marriage, of two persons, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership must be recognized as a valid domestic partnership in Washington regardless of whether it bears the name "domestic partnership."

*Notice*

The Secretary of State must send a letter to the mailing address on file of each same-sex, state-registered domestic partner notifying the person that the laws relating to state-registered domestic partners will change in relation to certain same-sex registered domestic partners. The notice must provide a brief summary of the new law and must clearly state that provisions related to certain same-sex registered domestic partnerships will change as of the effective dates of this act, and that those same-sex registered domestic partnerships that are not dissolved prior to June 30, 2014, will be converted to marriages as an act of law. The Secretary of State must send a second notice by May 1, 2014.

**SUMMARY OF REFERENDUM 74**

If R-74 is approved by the voters, ESSB 6239, enacted by the Legislature in 2012, becomes effective 30 days after the election.

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For further information please contact:  
Sharon Swanson, (360) 786-7400  
Government Operations & Elections

*This summary should not be considered legislative history for purposes of interpreting Referendum 74.*