

INITIATIVE 957

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 957 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to marriage; amending RCW 26.04.010, 26.04.020,
2 26.04.210, 43.70.150, and 70.58.005; adding new sections to chapter
3 26.04 RCW; adding a new section to chapter 26.09 RCW; adding a new
4 section to chapter 70.58 RCW; and creating a new section.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** On July 26, 2006, the Washington supreme
7 court cited the "legitimate state interests" of procreation and child
8 rearing as a basis for preserving the defense of marriage act. The
9 people of Washington find it desirable to place part of this ruling
10 into statutory form and make procreation a requirement for valid
11 marriage in this state.

12 **Sec. 2.** RCW 26.04.010 and 1998 c 1 s 3 are each amended to read as
13 follows:

14 (1) Marriage is a civil contract between a male and a female who
15 have each attained the age of eighteen years, who are capable of having
16 children with one another, and who are otherwise capable.

17 (2) Every marriage entered into in which either the husband or the
18 wife has not attained the age of seventeen years is void except where

1 this section has been waived by a superior court judge of the county in
2 which one of the parties resides on a showing of necessity.

3 **Sec. 3.** RCW 26.04.020 and 1998 c 1 s 4 are each amended to read as
4 follows:

- 5 (1) Marriages in the following cases are prohibited:
 - 6 (a) When either party thereto has a wife or husband living at the
7 time of such marriage;
 - 8 (b) When the husband and wife are nearer of kin to each other than
9 second cousins, whether of the whole or half blood computing by the
10 rules of the civil law; (~~or~~)
 - 11 (c) When the parties are persons other than a male and a female ;
 - 12 (d) When the parties are unable to have children together for any
13 reason; or
 - 14 (e) When the parties were previously married in this state but had
15 their marriage annulled because of failure to have filed a certificate
16 of marital procreation as required by section 5 of this act.

17 (2) It is unlawful for any man to marry his father's sister,
18 mother's sister, daughter, sister, son's daughter, daughter's daughter,
19 brother's daughter or sister's daughter; it is unlawful for any woman
20 to marry her father's brother, mother's brother, son, brother, son's
21 son, daughter's son, brother's son or sister's son.

22 (3) A marriage between two persons that is recognized as valid in
23 another jurisdiction is valid in this state only if the marriage is not
24 (~~prohibited or made unlawful under subsection (1)(a), (1)(c), or (2)~~
25 ~~of this section)) an unrecognized marriage as defined by section 7 of
26 this act.~~

27 **Sec. 4.** RCW 26.04.210 and 2003 c 53 s 166 are each amended to read
28 as follows:

29 (1) The county auditor, before a marriage license is issued, upon
30 the payment of a license fee as fixed in RCW 36.18.010 shall require
31 each applicant therefor to make and file in the auditor's office upon
32 blanks to be provided by the county for that purpose, an affidavit
33 showing that if an applicant is afflicted with any contagious sexually
34 transmitted disease, the condition is known to both applicants, that
35 the applicants know of no reason why they would be unable to have
36 children together, and that the applicants are the age of eighteen
37 years or over. If the consent in writing is obtained of the father,

1 mother, or legal guardian of the person for whom the license is
2 required, the license may be granted in cases where the female has
3 attained the age of seventeen years or the male has attained the age of
4 seventeen years. Such affidavit may be subscribed and sworn to before
5 any person authorized to administer oaths.

6 (2) Anyone knowingly swearing falsely to any of the statements
7 contained in the affidavits mentioned in this section is guilty of
8 perjury under chapter 9A.72 RCW.

9 (3) The affidavit form shall be designed to require a statement
10 that no contagious sexually transmitted disease is present or that the
11 condition is known to both applicants, without requiring the applicants
12 to state whether or not either or both of them are afflicted by such
13 disease.

14 (4) Any person knowingly violating this section is guilty of a
15 class C felony and shall be punished by a fine of not more than one
16 thousand dollars, or by imprisonment in a state correctional facility
17 for a period of not more than three years, or by both such fine and
18 imprisonment.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 26.04 RCW
20 to read as follows:

21 (1) All couples married in this state shall have three years from
22 the date of solemnization of the marriage, or eighteen months from the
23 effective date of this act, whichever is later, to have filed with the
24 state registrar of vital statistics or designated deputy registrar at
25 least one certificate of marital procreation as described in section 11
26 of this act.

27 (2) Failure to comply with subsection (1) of this section shall
28 result in the marriage being unrecognized as described in section 7 of
29 this act, effective as of the midnight ending the time period described
30 in subsection (1) of this section.

31 (3) A marriage that has become unrecognized pursuant to subsection
32 (2) of this section shall remain unrecognized until the couple has
33 complied with the requirements of subsection (1) of this section, or
34 until the marriage is annulled in accordance with section 8 of this
35 act, or until the marriage is dissolved for any other reason.

36 (4) The couple shall be subject to the penalties of section 7 (2)
37 through (4) of this act for any marital benefits received during the
38 time their marriage was unrecognized.

1 (5) Within fourteen days after the date described in subsection (1)
2 of this section, the state registrar of vital statistics shall verify
3 that at least one certificate of marital procreation has been filed for
4 the married couple. In the absence of any such certificate, the
5 registrar shall proceed in accordance with section 8 of this act.

6 NEW SECTION. Sec. 6. A new section is added to chapter 26.04 RCW
7 to read as follows:

8 (1) All couples married outside of this state shall have three
9 years from the date of solemnization of the marriage, or eighteen
10 months from the effective date of this act, or thirty days from the
11 date of taking up residence within this state, whichever is later, to
12 have filed with the state registrar of vital statistics or designated
13 deputy registrar at least one certificate of marital procreation as
14 described in section 11 of this act.

15 (2) Failure to comply with subsection (1) of this section shall
16 result in the marriage being unrecognized as described in section 7 of
17 this act, effective as of the midnight ending the time period described
18 in subsection (1) of this section.

19 (3) A marriage that has become unrecognized pursuant to subsection
20 (2) of this section shall remain unrecognized until the couple has
21 complied with the requirements of subsection (1) of this section, or
22 until the marriage is dissolved.

23 (4) The couple shall be subject to the penalties of section 7 (2)
24 through (4) of this act for any marital benefits received during the
25 time their marriage was unrecognized.

26 NEW SECTION. Sec. 7. A new section is added to chapter 26.04 RCW
27 to read as follows:

28 (1) No state, county, or local government, governmental agency, or
29 other public agent shall provide marriage benefits to any individual in
30 an unrecognized marriage. Any person who receives benefits in
31 violation of this subsection shall be liable for repayment of those
32 benefits or their monetary value.

33 (2) No employer, insurance provider, or other private agent shall
34 be required to provide marriage benefits to any individual in an
35 unrecognized marriage. Any person who receives benefits in violation
36 of this subsection shall be liable for repayment of those benefits or
37 their monetary value upon the request of the providing agent.

1 (3) It shall be a gross misdemeanor when:

2 (a) An individual with knowledge that his marriage is unrecognized
3 applies for marital benefits;

4 (b) An individual with knowledge that his marriage is unrecognized
5 allows another to apply for marital benefits on his behalf; and

6 (c) An individual applies for marital benefits on behalf of someone
7 else, knowing that this person's marriage is unrecognized.

8 (4) "Unrecognized marriage" means a marriage recognized as valid in
9 another jurisdiction but which is prohibited or made unlawful under RCW
10 26.04.020(1) (a), (c), (d), (e), or (2), section 5 of this act, or
11 section 6 of this act.

12 NEW SECTION. **Sec. 8.** A new section is added to chapter 26.09 RCW
13 to read as follows:

14 (1) When the state registrar of vital statistics determines that a
15 marriage solemnized in this state has failed to produce offspring as
16 described in section 5 of this act, he or she shall file a petition in
17 the superior court of the county wherein the marriage license was filed
18 requesting that the marriage be annulled on the grounds of failure to
19 fulfill the purpose of marriage. This petition shall include the names
20 and last known address of the husband and wife, the date of their
21 marriage, the date of the deadline described in section 5(1) of this
22 act, and a statement declaring that no certificates of marital
23 procreation have been filed as required by law.

24 (2) The court shall have thirty days to make a good faith effort to
25 contact the couple and allow them to contest the annulment of their
26 marriage. If the couple can have filed with the state registrar a
27 certificate of marital procreation as described in section 11 of this
28 act showing the birth of a child before the deadline described in
29 section 5(1) of this act, the petition for annulment shall be
30 dismissed. If a certificate is not filed within the time allowed, the
31 annulment shall be decreed.

32 **Sec. 9.** RCW 43.70.150 and 1989 1st ex.s. c 9 s 254 are each
33 amended to read as follows:

34 The secretary of health shall have charge of the state system of
35 registration of births, marital procreation, deaths, fetal deaths,
36 marriages, and decrees of divorce, annulment and separate maintenance,

1 and shall prepare the necessary rules, forms, and blanks for obtaining
2 records, and insure the faithful registration thereof.

3 **Sec. 10.** RCW 70.58.005 and 2005 c 365 s 151 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Business days" means Monday through Friday except official
8 state holidays.

9 (2) "Department" means the department of health.

10 (3) "Embalmer" means a person licensed as required in chapter 18.39
11 RCW and defined in RCW 18.39.010.

12 (4) "Funeral director" means a person licensed as required in
13 chapter 18.39 RCW and defined in RCW 18.39.010.

14 (5) "Vital records" means records of birth, marital procreation,
15 death, fetal death, marriage, dissolution, annulment, and legal
16 separation, as maintained under the supervision of the state registrar
17 of vital statistics.

18 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.58 RCW
19 to read as follows:

20 (1) When a birth certificate is filed pursuant to RCW 70.58.080
21 which names a mother and father who are married to one another, the
22 registrar shall prepare a certificate of marital procreation. This
23 certificate shall include the names of the mother and father, the date
24 of their marriage, whether their marriage was filed in this state and
25 if so, the county in which the marriage was solemnized, and the date of
26 the child's birth. This certificate shall be forwarded to the state
27 office of vital statistics with the birth certificate pursuant to RCW
28 70.58.030.

29 (2) When a certificate of marital procreation is required for
30 births that have occurred outside of this state, the couple shall
31 provide to the state registrar of vital statistics or designated deputy
32 registrar a certified copy of a birth certificate showing the married
33 couple to be the biological parents of a child born after the date of
34 the marriage, along with either proof of the date of their marriage or
35 the sworn affidavit of both husband and wife giving the date of their
36 marriage.

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