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.

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

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

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

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

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

(2) Every marriage entered into in which either the husband or the wife has not attained the age of seventeen years is void except where
this section has been waived by a superior court judge of the county in
which one of the parties resides on a showing of necessity.

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

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

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

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

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

(1) The county auditor, before a marriage license is issued, upon
the payment of a license fee as fixed in RCW 36.18.010 shall require
each applicant therefor to make and file in the auditor's office upon
blanks to be provided by the county for that purpose, an affidavit
showing that if an applicant is afflicted with any contagious sexually
transmitted disease, the condition is known to both applicants, that
the applicants know of no reason why they would be unable to have
children together, and that the applicants are the age of eighteen
years or over. If the consent in writing is obtained of the father,
mother, or legal guardian of the person for whom the license is required, the license may be granted in cases where the female has attained the age of seventeen years or the male has attained the age of seventeen years. Such affidavit may be subscribed and sworn to before any person authorized to administer oaths.

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

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

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

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

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

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

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

(4) The couple shall be subject to the penalties of section 7 (2) through (4) of this act for any marital benefits received during the time their marriage was unrecognized.
(5) Within fourteen days after the date described in subsection (1) of this section, the state registrar of vital statistics shall verify that at least one certificate of marital procreation has been filed for the married couple. In the absence of any such certificate, the registrar shall proceed in accordance with section 8 of this act.

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

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

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

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

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

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

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

(2) No employer, insurance provider, or other private agent shall be required to provide marriage benefits to any individual in an unrecognized marriage. Any person who receives benefits in violation of this subsection shall be liable for repayment of those benefits or their monetary value upon the request of the providing agent.
(3) It shall be a gross misdemeanor when:
(a) An individual with knowledge that his marriage is unrecognized applies for marital benefits;
(b) An individual with knowledge that his marriage is unrecognized allows another to apply for marital benefits on his behalf; and
(c) An individual applies for marital benefits on behalf of someone else, knowing that this person's marriage is unrecognized.

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

NEW SECTION. Sec. 8. A new section is added to chapter 26.09 RCW to read as follows:
(1) When the state registrar of vital statistics determines that a marriage solemnized in this state has failed to produce offspring as described in section 5 of this act, he or she shall file a petition in the superior court of the county wherein the marriage license was filed requesting that the marriage be annulled on the grounds of failure to fulfill the purpose of marriage. This petition shall include the names and last known address of the husband and wife, the date of their marriage, the date of the deadline described in section 5(1) of this act, and a statement declaring that no certificates of marital procreation have been filed as required by law.

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

Sec. 9. RCW 43.70.150 and 1989 1st ex.s. c 9 s 254 are each amended to read as follows:
The secretary of health shall have charge of the state system of registration of births, marital procreation, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance,
and shall prepare the necessary rules, forms, and blanks for obtaining records, and insure the faithful registration thereof.

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

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

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

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

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

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

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

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

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

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