



King County

Metropolitan King County Council

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December 29, 2006

Washington State Senate
Washington State House of Representatives
Olympia, WA 98504

Dear Legislator,

As members of the Democratic Caucus of the Metropolitan King County Council, we urge you to pass legislation ending the exclusion of gays and lesbians from statutory marital rights. This step is necessary not just to provide King County's gay and lesbian citizens with equal justice, but also to protect all the people of King County and ensure equal rights throughout the State of Washington.

In 2004, a study conducted by newly elected Representative Jamie Pedersen concluded at least 423 Washington statutes distinguish rights and responsibilities based on marriage. Among the significant benefits to married persons are:

- (1) The right to bring a wrongful death action (RCW 4.20);
- (2) A grant of spousal privilege (the right and duty not to testify against a spouse in most legal proceedings) (RCW 5.60.060);
- (3) Inheritance rights, whether under the laws of intestacy (when someone dies without a will) (RCW 11.04), or overriding certain elections by those who have made wills (RCW 11.28);
- (4) The right to dissolution of the relationship and distribution of assets administered by a specialized court system (RCW 26.09);
- (5) Community property (RCW 26.16);
- (6) Protections for those who receive insurance benefits through their spouse (RCW 48.44);
- (7) Rights on the death of a spouse, including the right to control autopsies and organ donations and the right to be buried next to one's spouse (RCW 68.32); and

(8) Certain state tax benefits, such as a sales tax exemption for transfers made from one spouse to another in connection with a dissolution (RCW 82.45).

There are numerous other marriage benefits critical to certain classes of people. For example, spouses of public employees have important pension benefits. Certain business licenses pass automatically and without charge to the surviving spouses of licensees or franchisees. The spouses of indigent veterans are entitled to various forms of public assistance.

In addition, the legislature protects the public from fraud or nepotism that might be caused by married couples. Statutes require public members of various professional licensing boards not be married to members of the regulated profession (e.g. RCW 18.118.020), forbid spouses of lottery employees or officials from participating in the state lottery (RCW 67.70.180), and require professional fundraisers to make a disclosure if he or she is married to an officer of an entity that will receive 10% or more of the fundraising proceeds (RCW 19.09.097).

The legal institution of marriage in Washington also helps protect its most vulnerable population, children. The statutes previously noted aid the financial stability of married couples, thus helping to provide stable, safe homes for children. In addition, Washington statutes presume parentage for children born into marriage (RCW 26.26). Both parents are thus liable for child support and presumptively responsible for issues involving custody and parental decision-making.

The history of the millions of responsible, intelligent, moral gay and lesbian couples in the United States confirms the importance of same sex relationships, as does our personal knowledge of family, friends, colleagues and acquaintances that are gay. Because their relationships are meaningful, laws should be changed that discriminate against same sex couples, by denying legal meaning to their relationships

In the recent court case of Andresen v. King County, seven of the nine justices of the Washington Supreme Court, (and both of the distinguished trial judges who heard the underlying cases) agreed Washington's existing marriage laws are discriminatory, leaving same sex couples to suffer significant and unequal burdens. Justice Barbara Madsen, writing on behalf of the court noted both the Legislature's great responsibility in regulating marriage and the burden that the current statutes on marriage place on Washington citizens:

All parties agree that the legislature has the authority to define marriage within constitutional limits. However, we note that the record is replete with examples as to how the definition of marriage negatively impacts gay and lesbian couples and their children. The plaintiffs and their amici have clearly demonstrated that many day-to-day decisions that are routine for married couples are more complex, more agonizing, and more costly for same-sex couples, unlike married couples who automatically have the advantages and rights provided to them in a myriad of laws and policies... .

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Justice Madsen's opinion for the court stated it was the province of the Washington State Legislature to remedy the problem. This Legislature has an opportunity and, we would argue, a responsibility to act.

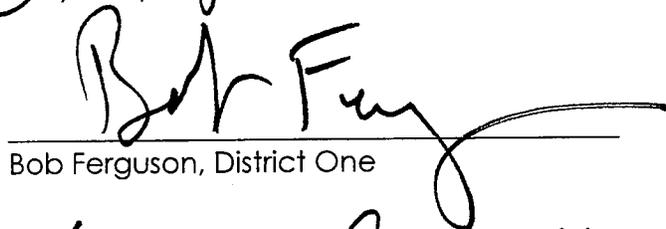
Every day that an injustice goes uncorrected is an unhealed wound. Thousands of our constituents have been told by their state Supreme Court that they are being discriminated against, but that their only remedy is an act of the Legislature. This Legislature can ensure that the laws of Washington establish a just and civil society for all citizens.

Thank you for your consideration of our request. We will assist however we can to speed the day when all the citizens of our county may gain legal recognition of the self-imposed bond they have already undertaken: commitment to the life of another.

Sincerely,



Larry Phillips, Council Chair



Bob Ferguson, District One



Larry Gossett, District Two



Julia Patterson, District Five



Dow Constantine, District Eight