

# The Hotsheet

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## HB 3104 - Expanding rights and responsibilities for domestic partnerships. Companion bill: SB 6716

There are over 360 Washington state rights and 1,100 federal rights that are triggered by marriage. Last year's legislature passed SB 5336, a bill granting very limited rights to domestic partners. These related primarily to health and death issues. The 2008 legislature enacted HB 3104, which greatly expanded rights for domestic partners, although the bill did not extend all rights related to marriage to domestic partners. And of course the state legislature cannot grant federal rights to domestic partners.

The bill is 196 pages long. The following is a partial list of the rights granted to domestic partners by the bill, as well as some of the procedural aspects of the bill.

*Sec 101:* The secretary of state is to send notices to those already registered as domestic partners, explaining the new laws relating to domestic partners established by this bill. The notice is also to explain that the way domestic partnerships are terminated has changed, and that except in certain limited circumstances, domestic partners may have to go through a dissolution proceeding in order to terminate

their relationship.

*Sec 201 et seq:* Domestic partners are immediate family members for purposes of laws limiting donations and gifts to public officials and their families. Other limitations on the activities by or for the benefit of family members of elected officials apply to domestic partners.

*Sec 301 et seq:* For purposes of RCW 42.185A, Washington's Affordable



Housing Program, domestic partners have the same rights as spouses.

*Sec 303 and Sec 406:* Domestic partners are "cohabitants" for purposes of Washington's domestic violence statutes.

*Sec 304:* RCW 70.129 relates to long-term care resident rights. Domestic partners are treated the same as spouses for these purposes. For example, under certain circumstances spouses are entitled to reside in the same room together in

long-term care facilities. The same is now true for domestic partners.

*Sec 401:* Pursuant to RCW 26.22.020, under certain circumstances, contributory fault in a tort claim is not attributed to a spouse. The same is now true for domestic partners.

*Sec 402:* The marital privilege regarding testimony by one spouse against the other is extended to domestic partners.

*Sec 404:* Domestic partners are treated the same as spouses for purposes of Chapter 7.69 RCW, the chapter relating to crime victims, survivors, and witnesses.

*Sec 407:* RCW 4.08.030 is amended so that either spouse or domestic partner may sue on behalf of the community. This presupposes

that domestic partners are now recognized as a community, as are spouses. Following sections make it clear that domestic partners are to be treated the same as spouses are treated with respect to lawsuits, including both the ability to sue and liability.

*Sec 501:* Under certain circumstances, spouses and children of eligible veterans who become totally disabled while on active military duty, or who are declared missing in action or a prisoner

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of war, may have their tuition waived in state universities. This privilege extends to domestic partners.

*Sec 601 et seq:* Washington’s community property laws apply to domestic partners. The community property laws apply to domestic partners as of the date of the initial registration as domestic partners or the effective date of the act, whichever is later.

*Sec 612:* Domestic partners may enter into community property agreements.

*Sec 618:* RCW 26.16.205, which states that family expenses, including those of stepchildren, are chargeable to both spouses, applies to domestic partners.

*Sec 624:* RCW 11.84.030, the slayer’s statute, applies to domestic partners.

*Sec 633 et seq:* Domestic partners are treated the same as spouses for purposes of the homestead exemption.

*Sec 701:* Real estate excise taxes do not apply to the transfer of real property from one spouse or domestic partner to the other pursuant to a decree of dissolution of marriage or of a registered domestic partnership.

*Sec 803 et seq:* One domestic partner is entitled to notice of a hearing regarding a hearing regarding a guardianship for the other, and is entitled to participate in the guardianship proceedings, in the same way a spouse is entitled to such notice and participation.

*Sec 901 et seq:* Domestic partners are treated the same as spouses for purposes of probate laws, including homestead and intestate succession. This includes the statute that states that a spouse’s interest in property created by a will is revoked by a dissolution of the marriage (or, in this case, the domestic partnership).

*Sec 1001 et seq:* There are three ways to terminate a domestic partnership.

a. A domestic partnership may be terminated without filing a petition in court if the following conditions are met:

The notice of termination of the state registered domestic partnership is signed by both partners.

Neither partner has children under the age of eighteen and neither is pregnant.

The state registered domestic partnership is under five years old.

Neither party owns real property, and neither party leases property, unless the lease is for i) property occupied by a domestic partner, ii) does not contain an option to purchase, and iii) the lease terminates less than one year after the registration of the termination of the domestic partnership.

There are no unpaid debts in excess of \$4,000, excluding automobile debts.

The net community estate, including deferred compensation and retirement plans, is less than \$25,000, and neither party has separate assets in excess of \$25,000.

The parties execute a document setting forth the division of property.

The parties each waive the right to maintenance from the other.

The domestic partnership is terminated effective 90 days after the filing of the notice of termination.

b. The domestic partnership is automatically terminated if the domestic partners enter into a marriage to each other that is recognized as valid in this state.

c. The domestic partnership may be terminated

through a dissolution proceeding. The statutes that apply to terminations of marriages, including the ability to enter temporary orders, divide property, award maintenance, and enter parenting plans and orders of child support, apply to terminations of domestic partnerships. Domestic partners can seek legal separations. Domestic partners can enter into pre-nuptial agreements or separation agreements. The modification statutes also apply to domestic partnership dissolutions.

*Sec 1101:* A domestic partnership other than a marriage that is was legally entered into and recognized in another state is recognized as a domestic partnership in Washington, regardless of whether or not it is called a domestic partnership.

This statute takes effect on June 12, 2008.

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*“Even when laws have been written down, they ought not always to remain unaltered.”*

*-Aristotle*

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