



## The Expansion of Washington State's Domestic Partnership Law

by Adam Belzberg

On May 18, 2009, Governor Christine Gregoire signed SB 5688 into law. SB 5688, or the so-called "everything but marriage" law, represents the latest step in the incremental approach the Washington state legislature has taken to the issues of domestic partnership rights and same-sex marriage.

The new law expands on Washington's previous domestic partnership laws by adding state-registered domestic partnerships to remaining areas of state law where currently only married couples are acknowledged. In reaching its stated goal, the "everything but marriage" law provides that, under Washington law, the terms "spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family" will apply equally to married couples and state-registered domestic partnerships. Unless referred to the voters, the expanded domestic partnership law will become effective on July 26, 2009.

### Washington's Progression Toward the "Everything but Marriage" Law

Beginning in 2007, Washington joined the growing number of states expanding rights and benefits to same-sex couples by enacting the State's initial domestic partnership law. Under Washington law, same-sex couples and heterosexual couples with at least one partner aged 62 or older may register as domestic partners if:

- Both partners are at least 18 years of age
- They share a home
- They are not married to or in a registered domestic relationship with someone else
- They are legally capable of consenting to the domestic partnership
- They are not close blood relatives

The 2007 law provided state-registered domestic partners with hospital visitation rights; the ability to authorize autopsies and organ donations; and inheritance rights when a partner dies intestate. In 2008, the legislature extended the scope of the domestic partnership law to provide protection to domestic partnerships in the areas of probate and trusts; guardianship and power of attorney; and community property.

### What Does this Mean for Employers?

The "everything but marriage" law will have a significant impact on Washington employers. As the final step in providing registered domestic partnerships with rights and benefits that are equal to those of married couples, the law provides registered domestic partners with, among other things, the right to use sick leave to care for each other; the right to workers' compensation coverage; and the right to unemployment and disability insurance benefits.

With the new rights come new responsibilities. Employers that have "anti-nepotism policies" that prevent one spouse from supervising the other, for example, should review such policies to add "state-registered domestic partners" as appropriate.

In addition to auditing and revising employee policies and handbooks to reflect the changes in the law, employers are well advised to publish and distribute the revised policies in advance of the July 26, 2009 effective date. Advance distribution of new or revised employment policies allows employees and supervisors time to digest the new information and raise any issues requiring clarification.

Further, orientation and training of supervisors on the impact of the revised policies is critical to ensure the consistent application of employment policies. All steps necessary should be taken to ensure that supervisors understand the content, application, and administrative procedures of the policies prior to their distribution and before any discussions with nonsupervisory personnel.

It is also important to note that the "everything but marriage" law does not impact federal law. Under federal or state law, employers may extend equal benefits and protections to same-sex couples. According to a recent report by the Human Rights Campaign Foundation, nearly 60 percent of the country's largest corporations now offer health insurance benefits for their same-sex partners. The report also indicated that 85 percent of those corporations prohibit discrimination based on sexual orientation, and 35 percent prohibit bias based on gender identity.

### **What Employers Should Do Now?**

- Review and revise handbooks and policies to include "state-registered domestic partners"
- Review employee benefit plans for possible changes to cover domestic partners
- Train supervisors and employees on the new law and revised policies

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