

House Bill 2738

Sponsored by Representative BARNHART

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that marriage is civil contract entered into between two persons. Clarifies that "husband," "wife" and "spouse" as used in state statutes include married persons of same sex.

Permits registered domestic partners to dissolve domestic partnership for purpose of entering into marriage with each other after effective date of Act.

Takes effect only if amendment to Oregon Constitution repealing section 5a, Article XV, is approved by people at regular general election held in November 2018. Takes effect on effective date of constitutional amendment repealing section 5a, Article XV.

A BILL FOR AN ACT

1
2 Relating to marriage; creating new provisions; amending ORS 106.010 and 106.315; repealing ORS
3 106.305; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 106.010 is amended to read:

6 106.010. Marriage is a civil contract entered into in person by [*males*] **two persons who are**
7 at least 17 years of age and [*females at least 17 years of age,*] who are otherwise capable, and
8 solemnized in accordance with ORS 106.150.

9 **SECTION 2.** ORS 106.305 is repealed.

10 **SECTION 3.** Sections 4 and 5 of this 2017 Act are added to and made a part of ORS
11 chapter 106.

12 **SECTION 4.** As used in the statute laws of this state, unless the context or a specifically
13 applicable definition requires otherwise, "husband," "wife" and "spouse" include persons of
14 the same sex who have entered into marriage as described in ORS 106.010.

15 **SECTION 5.** (1) Persons of the same sex may enter into marriage as described in ORS
16 106.010 or a domestic partnership under ORS 106.300 to 106.340.

17 (2) Persons in a domestic partnership may dissolve or annul the domestic partnership as
18 provided in ORS 106.325 for the purpose of entering into marriage with each other as de-
19 scribed in ORS 106.010.

20 **SECTION 6.** ORS 106.315 is amended to read:

21 106.315. (1) A domestic partnership is prohibited and void when:

22 (a) Either party to the domestic partnership had a partner or spouse living at the time of the
23 domestic partnership unless the partner or spouse was the other party to the domestic partnership.
24 **However, parties who are married to each other may not enter into a domestic partnership**
25 **with each other unless the parties' marriage has been annulled or dissolved under ORS**
26 **chapter 107.**

27 (b) The parties to the domestic partnership are first cousins or any nearer of kin to each other,
28 whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 law. However, when the parties are first cousins by adoption only, the domestic partnership is not
2 prohibited or void.

3 (2) When either party to a domestic partnership is incapable of making the civil contract or
4 consenting to the contract for want of legal age or sufficient understanding, or when the consent
5 of either party is obtained by force or fraud, the domestic partnership is void from the time it is so
6 declared by a judgment of a court having jurisdiction of the domestic partnership.

7 **SECTION 7. This 2017 Act does not take effect unless the amendment to the Oregon**
8 **Constitution proposed by House Joint Resolution 11 (2017) is approved by the people at the**
9 **regular general election held in November 2018. This 2017 Act takes effect on the effective**
10 **date of that amendment.**

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