

Senate Bill No. 54

Passed the Senate September 9, 2009

Secretary of the Senate

Passed the Assembly September 3, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 308 of the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, Leno. Family law: out-of-state same-sex marriages.

Existing law provides that a marriage contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state. Existing case law provides that, while on and after November 5, 2008, only marriage between a man and a woman is valid or recognized in California, marriages of same-sex couples that were performed prior to November 5, 2008, are valid.

This bill would provide that, notwithstanding any other provision of law, a marriage between 2 persons of the same sex contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state if the marriage was contracted prior to November 5, 2008.

Existing case law also recognizes that while, effective November 5, 2008, same-sex couples lack the right to enter into a relationship designated “marriage,” they possess the right to the core set of basic substantive legal rights and attributes traditionally associated with marriage, including, the opportunity of an individual to establish an officially recognized and protected family possessing mutual rights and responsibilities and entitled to the same respect and dignity accorded a union traditionally designated as marriage.

This bill would specify that, notwithstanding any other provision of law, 2 persons of the same sex who contracted a marriage on or after November 5, 2008, that would be valid by the laws of the jurisdiction in which the marriage was contracted shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, as specified, as are granted to and imposed upon spouses with the sole exception of the designation of “marriage.”

The people of the State of California do enact as follows:

SECTION 1. Section 308 of the Family Code is amended to read:

308. (a) A marriage contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state.

(b) Notwithstanding any other provision of law, a marriage between two persons of the same sex contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state if the marriage was contracted prior to November 5, 2008.

(c) Notwithstanding any other provision of law, two persons of the same sex who contracted a marriage on or after November 5, 2008, that would be valid by the laws of the jurisdiction in which the marriage was contracted shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from the California Constitution, the United States Constitution, statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses with the sole exception of the designation of “marriage.”

Approved _____, 2009

Governor