



180026

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Children, Families, and Elder Affairs (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (29) is added to section 28.24, Florida Statutes, to read:

28.24 Service charges by clerk of the circuit court.—The clerk of the circuit court shall charge for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide



180026

13 without charge to the state attorney, public defender, guardian
14 ad litem, public guardian, attorney ad litem, criminal conflict
15 and civil regional counsel, and private court-appointed counsel
16 paid by the state, and to the authorized staff acting on behalf
17 of each, access to and a copy of any public record, if the
18 requesting party is entitled by law to view the exempt or
19 confidential record, as maintained by and in the custody of the
20 clerk of the circuit court as provided in general law and the
21 Florida Rules of Judicial Administration. The clerk of the
22 circuit court may provide the requested public record in an
23 electronic format in lieu of a paper format when capable of
24 being accessed by the requesting entity.

25
26 Charges

27
28 (29) Upon receipt of a Declaration of Domestic Partnership,
29 for preparing and administering of oath, and filing and
30 providing a certified copy the domestic partnership,\$30.00.

31 Section 2. Subsection (3) of section 382.009, Florida
32 Statutes, is amended to read:

33 382.009 Recognition of brain death under certain
34 circumstances.—

35 (3) The next of kin of the patient and domestic partner
36 shall be notified as soon as practicable of the procedures to
37 determine death under this section. The medical records shall
38 reflect such notice; if such notice has not been given, the
39 medical records shall reflect the attempts to identify and
40 notify the next of kin.

41 Section 3. Paragraph (c) of subsection (5) of section



180026

42 394.459, Florida Statutes, is amended to read:

43 394.459 Rights of patients.—

44 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

45 (c) Each facility must permit immediate access to any
46 patient, subject to the patient's right to deny or withdraw
47 consent at any time, by the patient's family members, including
48 the patient's domestic partner, guardian, guardian advocate,
49 representative, Florida statewide or local advocacy council, or
50 attorney, unless such access would be detrimental to the
51 patient. If a patient's right to communicate or to receive
52 visitors is restricted by the facility, written notice of such
53 restriction and the reasons for the restriction shall be served
54 on the patient, the patient's attorney, and the patient's
55 guardian, guardian advocate, or representative; and such
56 restriction shall be recorded on the patient's clinical record
57 with the reasons therefor. The restriction of a patient's right
58 to communicate or to receive visitors shall be reviewed at least
59 every 7 days. The right to communicate or receive visitors shall
60 not be restricted as a means of punishment. Nothing in this
61 paragraph shall be construed to limit the provisions of
62 paragraph (d).

63 Section 4. Paragraphs (c) and (e) of subsection (1) of
64 section 400.022, Florida Statutes, are amended to read:

65 400.022 Residents' rights.—

66 (1) All licensees of nursing home facilities shall adopt
67 and make public a statement of the rights and responsibilities
68 of the residents of such facilities and shall treat such
69 residents in accordance with the provisions of that statement.
70 The statement shall assure each resident the following:



180026

71 (c) Any entity or individual that provides health, social,
72 legal, or other services to a resident has the right to have
73 reasonable access to the resident. The resident has the right to
74 deny or withdraw consent to access at any time by any entity or
75 individual. Notwithstanding the visiting policy of the facility,
76 the following individuals must be permitted immediate access to
77 the resident:

78 1. Any representative of the federal or state government,
79 including, but not limited to, representatives of the Department
80 of Children and Family Services, the Department of Health, the
81 Agency for Health Care Administration, the Office of the
82 Attorney General, and the Department of Elderly Affairs; any law
83 enforcement officer; members of the state or local ombudsman
84 council; and the resident's individual physician.

85 2. Subject to the resident's right to deny or withdraw
86 consent, immediate family, including the resident's domestic
87 partner, or other relatives of the resident.

88
89 The facility must allow representatives of the State Long-Term
90 Care Ombudsman Council to examine a resident's clinical records
91 with the permission of the resident or the resident's legal
92 representative and consistent with state law.

93 (e) The right to organize and participate in resident
94 groups in the facility and the right to have the resident's
95 family, including the resident's domestic partner, meet in the
96 facility with the families of other residents.

97 Section 5. Section 406.50, Florida Statutes, is amended to
98 read:

99 406.50 Unclaimed dead bodies or human remains; disposition,



180026

100 procedure.—All public officers, agents, or employees of every
101 county, city, village, town, or municipality and every person in
102 charge of any prison, morgue, hospital, funeral parlor, or
103 mortuary and all other persons coming into possession, charge,
104 or control of any dead human body or remains which are unclaimed
105 or which are required to be buried or cremated at public expense
106 are hereby required to notify, immediately, the anatomical
107 board, whenever any such body, bodies, or remains come into its
108 possession, charge, or control. Notification of the anatomical
109 board is not required if the death was caused by crushing
110 injury, the deceased had a contagious disease, an autopsy was
111 required to determine cause of death, the body was in a state of
112 severe decomposition, or a family member, including a domestic
113 partner, objects to use of the body for medical education and
114 research.

115 (1) The person or entity in charge or control of the dead
116 body or human remains shall make a reasonable effort to
117 determine:

118 (a) The identity of the deceased person and shall further
119 make a reasonable effort to contact any relatives, including a
120 domestic partner, of such deceased person.

121 (b) Whether or not the deceased person is entitled to
122 burial in a national cemetery as a veteran of the armed forces
123 and, if so, shall make arrangements for such burial services in
124 accordance with the provisions of 38 C.F.R. For purposes of this
125 subsection, "a reasonable effort" includes contacting the county
126 veterans service office or regional office of the United States
127 Department of Veterans Affairs.

128 (2) Such dead human bodies as described in this chapter



180026

129 shall be delivered to the anatomical board as soon as possible
130 after death.

131 (3) Nothing herein shall affect the right of a medical
132 examiner to hold such dead body or remains for the purpose of
133 investigating the cause of death, nor shall this chapter affect
134 the right of any court of competent jurisdiction to enter an
135 order affecting the disposition of such body or remains.

136 (4) In the event more than one legally authorized person
137 claims a body for interment, the requests shall be prioritized
138 in accordance with s. 732.103.

139
140 For purposes of this chapter, the term "anatomical board" means
141 the anatomical board of this state located at the University of
142 Florida Health Science Center, and the term "unclaimed" means a
143 dead body or human remains that is not claimed by a legally
144 authorized person, as defined in s. 497.005, for interment at
145 that person's expense.

146 Section 6. Paragraph (g) of subsection (2) of section
147 408.051, Florida Statutes, is amended to read:

148 408.051 Florida Electronic Health Records Exchange Act.—

149 (2) DEFINITIONS.—As used in this section, the term:

150 (g) "Patient representative" means a parent of a minor
151 patient, a court-appointed guardian for the patient, a health
152 care surrogate, or a person holding a power of attorney or
153 notarized consent appropriately executed by the patient granting
154 permission to a health care facility or health care provider to
155 disclose the patient's health care information to that person.
156 In the case of a deceased patient, the term also means the
157 personal representative of the estate of the deceased patient;



180026

158 the deceased patient's surviving spouse, surviving domestic
159 partner, surviving parent, or surviving adult child; the parent
160 or guardian of a surviving minor child of the deceased patient;
161 the attorney for the patient's surviving spouse, domestic
162 partner, parent, or adult child; or the attorney for the parent
163 or guardian of a surviving minor child.

164 Section 7. Paragraph (g) of subsection (1) of section
165 429.28, Florida Statutes, is amended to read:

166 429.28 Resident bill of rights.—

167 (1) No resident of a facility shall be deprived of any
168 civil or legal rights, benefits, or privileges guaranteed by
169 law, the Constitution of the State of Florida, or the
170 Constitution of the United States as a resident of a facility.
171 Every resident of a facility shall have the right to:

172 (g) Share a room with his or her spouse or domestic partner
173 if both are residents of the facility.

174 Section 8. Paragraph (g) of subsection (1) of section
175 429.85, Florida Statutes, is amended to read:

176 429.85 Residents' bill of rights.—

177 (1) A resident of an adult family-care home may not be
178 deprived of any civil or legal rights, benefits, or privileges
179 guaranteed by law, the State Constitution, or the Constitution
180 of the United States solely by reason of status as a resident of
181 the home. Each resident has the right to:

182 (g) Share a room with the resident's spouse or domestic
183 partner if both are residents of the home.

184 Section 9. Paragraph (b) of subsection (5) of section
185 446.50, Florida Statutes, is amended to read:

186 446.50 Displaced homemakers; multiservice programs; report



180026

187 to the Legislature; Displaced Homemaker Trust Fund created.—

188 (5) DISPLACED HOME MAKER TRUST FUND.—

189 (b) The trust fund shall receive funds generated from an
190 additional fee on marriage license applications and dissolution
191 of marriage filings as specified in ss. 741.01(3), 741.507, and
192 28.101, respectively, and may receive funds from any other
193 public or private source.

194 Section 10. Subsection (39) of section 497.005, Florida
195 Statutes, is amended to read:

196 497.005 Definitions.—As used in this chapter, the term:

197 (39) "Legally authorized person" means, in the priority
198 listed:

199 (a) The decedent, when written inter vivos authorizations
200 and directions are provided by the decedent;

201 (b) The person designated by the decedent as authorized to
202 direct disposition pursuant to Pub. L. No. 109-163, s. 564, as
203 listed on the decedent's United States Department of Defense
204 Record of Emergency Data, DD Form 93, or its successor form, if
205 the decedent died while serving military service as described in
206 10 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States
207 Armed Forces, United States Reserve Forces, or National Guard;

208 (c) The surviving spouse or domestic partner, unless the
209 spouse or domestic partner has been arrested for committing
210 against the deceased an act of domestic violence as defined in
211 s. 741.28 that resulted in or contributed to the death of the
212 deceased;

213 (d) A son or daughter who is 18 years of age or older;

214 (e) A parent;

215 (f) A brother or sister who is 18 years of age or older;



- 216 (g) A grandchild who is 18 years of age or older;
- 217 (h) A grandparent; or
- 218 (i) Any person in the next degree of kinship.

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220 In addition, the term may include, if no family member exists or
221 is available, the guardian of the dead person at the time of
222 death; the personal representative of the deceased; the attorney
223 in fact of the dead person at the time of death; the health
224 surrogate of the dead person at the time of death; a public
225 health officer; the medical examiner, county commission, or
226 administrator acting under part II of chapter 406 or other
227 public administrator; a representative of a nursing home or
228 other health care institution in charge of final disposition; or
229 a friend or other person not listed in this subsection who is
230 willing to assume the responsibility as the legally authorized
231 person. Where there is a person in any priority class listed in
232 this subsection, the funeral establishment shall rely upon the
233 authorization of any one legally authorized person of that class
234 if that person represents that she or he is not aware of any
235 objection to the cremation of the deceased's human remains by
236 others in the same class of the person making the representation
237 or of any person in a higher priority class.

238 Section 11. Paragraph (e) of subsection (8) of section
239 497.152, Florida Statutes, is amended to read:

240 497.152 Disciplinary grounds.—This section sets forth
241 conduct that is prohibited and that shall constitute grounds for
242 denial of any application, imposition of discipline, or other
243 enforcement action against the licensee or other person
244 committing such conduct. For purposes of this section, the



180026

245 requirements of this chapter include the requirements of rules
246 adopted under authority of this chapter. No subsection heading
247 in this section shall be interpreted as limiting the
248 applicability of any paragraph within the subsection.

249 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF HUMAN
250 REMAINS.—

251 (e) Failing to obtain written authorization from the
252 family, including the domestic partner, or next of kin of the
253 deceased prior to entombment, interment, disinterment,
254 disentombment, or disinurnment of the remains of any human
255 being.

256 Section 12. Subsection (2) of section 741.01, Florida
257 Statutes, is amended to read:

258 741.01 County court judge or clerk of the circuit court to
259 issue marriage license; fee.—

260 (2) The fee charged for each marriage license issued in the
261 state shall be increased by the sum of \$25. This fee shall be
262 collected upon receipt of the application for the issuance of a
263 marriage license and remitted by the clerk to the Department of
264 Revenue for deposit in the Domestic Violence Trust Fund. The
265 Executive Office of the Governor shall establish a Domestic
266 Violence Trust Fund for the purpose of collecting and disbursing
267 funds generated from the increase in the marriage license fee
268 and the Declaration of Domestic Partnership fee collected
269 pursuant to s. 741.507. Such funds which are generated shall be
270 directed to the Department of Children and Family Services for
271 the specific purpose of funding domestic violence centers, and
272 the funds shall be appropriated in a "grants-in-aid" category to
273 the Department of Children and Family Services for the purpose



180026

274 of funding domestic violence centers. From the proceeds of the
275 surcharge deposited into the Domestic Violence Trust Fund as
276 required under s. 938.08, the Executive Office of the Governor
277 may spend up to \$500,000 each year for the purpose of
278 administering a statewide public-awareness campaign regarding
279 domestic violence.

280 Section 13. Section 741.501, Florida Statutes, is created
281 to read:

282 741.501 Legislative findings.—The Legislature finds that:

283 (1) There are a significant number of individuals in this
284 state who live together in important and personally,
285 emotionally, and economically committed relationships who are
286 not married under state law. These familial relationships are
287 often referred to as domestic partnerships. The 2010 census
288 indicates that more than 12 percent of Americans identified
289 themselves as living in a domestic partnership.

290 (2) The state has a strong interest in promoting stable and
291 lasting families and believes that all familial relationships,
292 including domestic partnerships, should be provided with
293 important legal protections.

294 (3) The status of marriage in this state is limited by Art.
295 I of the State Constitution to the union of one man and one
296 woman and the Legislature does not seek to alter the definition
297 of marriage in any way. The Legislature also finds, however,
298 that recognition of domestic partnerships can provide an
299 alternative mechanism for extending certain important rights and
300 responsibilities to individuals who choose to form long-term,
301 mutually supportive relationships. Such recognition will provide
302 support to these familial relationships without affecting the



180026

303 definition of marriage, without creating or recognizing a legal
304 relationship that is the substantial equivalent of marriage, and
305 without affecting restrictions contained in federal law. This
306 law does not alter, affect, or contravene any municipal, county,
307 state, or federal law that defines marriage, nor shall it be
308 interpreted as recognizing or treating a domestic partnership as
309 a marriage.

310 (4) Because of the material and other support that domestic
311 partnerships provide to their participants, these relationships
312 should be formally recognized and made uniform by law.

313 Recognition of these relationships will also promote employee
314 recruitment, employee retention, and employee loyalty for
315 employers within this state; and will promote economic
316 development by attracting companies to this state which value
317 diversity and protections for their employees. Therefore, the
318 Legislature declares that it is the policy of this state to
319 establish and define the rights and responsibilities of domestic
320 partners.

321 Section 14. Section 741.502, Florida Statutes, is created
322 to read:

323 741.502 Definitions.—As used in ss. 741.501-741.510, the
324 term:

325 (1) "Correctional facility" means any penal, correctional,
326 or detention facility operated by the state, one or more
327 counties, a municipality, or a private corporation.

328 (2) "Domestic partner" means a person who enters into a
329 domestic partnership.

330 (3) "Domestic partnership" means a civil contract that
331 meets the requirements of s. 741.505.



180026

332 (4) "Health care facility" means a facility licensed under
333 chapter 395, chapter 400, or chapter 429 or defined in s.
334 394.455.

335 (5) "Mutual residence" means a residence that is shared,
336 without the necessity that the legal right to possess the
337 property be in the name of both residents and regardless of
338 whether either resident has another dwelling.

339 Section 15. Section 741.503, Florida Statutes, is created
340 to read:

341 741.503 Forms.—The Department of Health shall prepare and
342 adopt the following forms:

343 (1) Declaration of Domestic Partnership.

344 (2) Certificate of Domestic Partnership.

345 (3) Notice of Termination of Domestic Partnership.

346 (4) Certificate of Termination of Domestic Partnership.

347 Section 16. Section 741.504, Florida Statutes, is created
348 to read:

349 741.504 Domestic partnership requirements.—

350 (1) A domestic partnership may be formed by filing a
351 Declaration of Domestic Partnership form with a clerk of the
352 circuit court in any county. The declaration must include:

353 (a) A statement attesting that each party is 18 years of
354 age or older. The clerk may accept any reasonable proof of an
355 individual's age, but the clerk must accept a driver license or
356 passport.

357 (b) A statement attesting that at least one of the parties
358 is a resident of this state.

359 (c) A statement attesting that both parties share a mutual
360 residence.



180026

361 (d) A statement attesting that formation of a domestic
362 partnership is not prohibited under s. 741.505.

363 (e) A mailing address for each party.

364 (f) The notarized signature of each party, along with a
365 declaration that the representations made on the form are true
366 and correct and contain no material omissions of fact to the
367 best knowledge and belief of each party.

368 (2) A person who intentionally provides materially false
369 information on a Declaration of Domestic Partnership form
370 commits a misdemeanor of the first degree, punishable as
371 provided in s. 775.082 or s. 775.083.

372 (3) If the Declaration of Domestic Partnership satisfies
373 the requirements of this section, the clerk of the circuit court
374 shall:

375 (a) Record the Declaration of Domestic Partnership in the
376 official records.

377 (b) Issue a Certificate of Domestic Partnership to the
378 partners in person or at the mailing address provided.

379 Section 17. Section 741.505, Florida Statutes, is created
380 to read:

381 741.505 Prohibitions to forming a domestic partnership.—A
382 domestic partnership is prohibited if:

383 (1) Either party is married to a different person, unless
384 the marriage has been legally terminated.

385 (2) Either party is a party to a domestic partnership with
386 a different domestic partner, unless the domestic partnership
387 has been legally terminated.

388 (3) The parties are related by lineal consanguinity or are
389 siblings, or if one party is the niece or nephew of the other



180026

390 party.

391 (4) Either party is incapable of making the civil contract
392 or of consenting to the contract for want of legal age or
393 sufficient understanding.

394 (5) Consent to formation of the domestic partnership by
395 either party is obtained by force, fraud, or duress.

396 Section 18. Section 741.506, Florida Statutes, is created
397 to read:

398 741.506 Domestic partnership; rights; enforcement.—

399 (1) A health care facility shall provide a domestic partner
400 with the same right of visitation it provides a spouse.

401 (2) A correctional institution shall grant a domestic
402 partner the same visitation privileges it grants a spouse.

403 (3) Any public or private entity that provides notice to a
404 spouse or relative in the event of an emergency shall provide
405 notice to a domestic partner.

406 (4) Domestic partners have the same right to jointly own
407 property by tenancy by the entirety, and all legal attributes
408 thereof, as is afforded to spouses.

409 (5) In the absence of a written designation of a healthcare
410 surrogate, a domestic partner has the same right to serve as
411 proxy, as provided in chapter 765, as a spouse.

412 (6) A decedent's domestic partner has the authority to act
413 as "patient's representative" and to direct the disposition of
414 the decedent's body as provided in chapters 382, 406, 408, 497,
415 765, and 872.

416 (7) A violation of this section may be enforced by private
417 cause of action filed in any court of competent jurisdiction for
418 declaratory relief, injunctive relief, or both. The prevailing



180026

419 party is entitled to recover attorney fees.

420 Section 19. Section 741.507, Florida Statutes, is created
421 to read:

422 741.507 Fees.-

423 (1) Upon receipt of a Declaration of Domestic Partnership,
424 the clerk of the circuit court shall collect and receive:

425 (a) A fee of \$30 as provided in s. 28.24(29).

426 (b) A fee of \$2 for receiving the Declaration of Domestic
427 Partnership.

428 (c) A fee of \$25 to be remitted to the Department of
429 Revenue for deposit into the Domestic Violence Trust Fund.

430 (d) A fee of \$25 to be remitted to the Department of
431 Revenue for monthly deposit into the General Revenue Fund.

432 (e) A fee of \$7.50 to be remitted to the Department of
433 Revenue for deposit into the Displaced Homemaker Trust Fund
434 created in s. 446.50.

435 (2) An applicant for a Certificate of Domestic Partnership
436 who cannot pay the fees required under subsection (1) in a lump
437 sum may make payment in not more than three installments over a
438 period of 90 days. The clerk shall accept installment payments
439 upon receipt of an affidavit that the applicant cannot pay the
440 fees in a lump-sum payment. Upon receipt of the third or final
441 installment payment, the Declaration of Domestic Partnership
442 shall be deemed filed, and the clerk shall issue the Certificate
443 of Domestic Partnership and distribute the fees as provided in
444 subsection (1). If the fees are paid in installments, the clerk
445 shall retain \$1 from the fee imposed pursuant to paragraph
446 (1)(b) as a processing fee.

447 (3) Upon receipt of a Notice of Termination of Domestic



180026

448 Partnership, the clerk of the circuit court shall collect and
449 receive a fee of \$10.

450 Section 20. Section 741.508, Florida Statutes, is created
451 to read:

452 741.508 Proof of domestic partnership if certificate is not
453 available.—

454 (1) If the Certificate of Domestic Partnership is not
455 available, the domestic partnership may be proved by an
456 affidavit before any officer authorized to administer oaths
457 which is made by two competent witnesses who were present and
458 saw the Declaration of Domestic Partnership executed.

459 (2) The clerk of the circuit court of the county in which
460 the Declaration of Domestic Partnership originally was executed
461 shall file and record the affidavit and shall issue a new
462 certificate, which has the same force and effect as the
463 original.

464 (3) For purposes of this section, a Certificate of Domestic
465 Partnership is not available if:

466 (a) A Declaration of Domestic Partnership was executed in
467 accordance with s. 741.504 but was not recorded;

468 (b) The certificate is lost; or

469 (c) The certificate cannot be obtained by reason of death
470 or other cause.

471 Section 21. Section 741.509, Florida Statutes, is created
472 to read:

473 741.509 Termination of partnership.—

474 (1) A party to a domestic partnership may terminate the
475 partnership by filing a Notice of Termination of Domestic
476 Partnership with the clerk of the circuit court and by paying



180026

477 the filing fee established under s. 741.507. The notice must be
478 signed by at least one of the parties and notarized. If the
479 notice is not signed by both parties, the party who seeks
480 termination must also file with the clerk an affidavit stating
481 that:

482 (a) Notice has been served on the other party in the manner
483 prescribed for the service of summons in a civil action; or

484 (b) The party who seeks termination has not been able to
485 find the other party after reasonable effort and that notice has
486 been made pursuant to s. 50.011 by publication in a newspaper of
487 general distribution in the county where the domestic partners
488 were last domiciled.

489 (2) The domestic partnership is terminated effective 90
490 days after the date of filing the notice of termination and
491 payment of the filing fee.

492 (3) Upon receipt of a signed, notarized notice of
493 termination, affidavit, if required, and filing fee, the clerk
494 of the circuit court shall file the notice of termination and
495 issue a Certificate of Termination of Domestic Partnership to
496 each party in person or at the mailing address provided on the
497 notice.

498 (4) A domestic partnership is automatically terminated if,
499 subsequent to the registration of the domestic partnership:

500 (a) Either party or both parties enter into a marriage that
501 is recognized as valid in this state, either with each other or
502 with another person; or

503 (b) One party dies, except that the death of a domestic
504 partner does not extinguish the surviving domestic partner's
505 rights with respect to the medical record of, or information



180026

506 relating to, the decedent and with respect to the disposition of
507 the decedent's body and the decedent's funeral arrangements.

508 (5) If a domestic partnership is automatically terminated,
509 at least one party must file a notice of termination with the
510 clerk of the circuit court within 30 days of the event causing
511 the automatic termination.

512 Section 22. Section 741.510, Florida Statutes, is created
513 to read:

514 741.510 Preemption.—This act does not preempt the authority
515 of a county or municipality to enact a domestic partnership
516 ordinance that is not in conflict with this act.

517 Section 23. Section 765.105, Florida Statutes, is amended
518 to read:

519 765.105 Review of surrogate or proxy's decision.—The
520 patient's family, including the patient's domestic partner, the
521 health care facility, or the attending physician, or any other
522 interested person who may reasonably be expected to be directly
523 affected by the surrogate or proxy's decision concerning any
524 health care decision may seek expedited judicial intervention
525 pursuant to rule 5.900 of the Florida Probate Rules, if that
526 person believes:

527 (1) The surrogate or proxy's decision is not in accord with
528 the patient's known desires or the provisions of this chapter;

529 (2) The advance directive is ambiguous, or the patient has
530 changed his or her mind after execution of the advance
531 directive;

532 (3) The surrogate or proxy was improperly designated or
533 appointed, or the designation of the surrogate is no longer
534 effective or has been revoked;



180026

535 (4) The surrogate or proxy has failed to discharge duties,
536 or incapacity or illness renders the surrogate or proxy
537 incapable of discharging duties;

538 (5) The surrogate or proxy has abused powers; or

539 (6) The patient has sufficient capacity to make his or her
540 own health care decisions.

541 Section 24. Subsection (1) of section 765.401, Florida
542 Statutes, is amended to read:

543 765.401 The proxy.—

544 (1) If an incapacitated or developmentally disabled patient
545 has not executed an advance directive, or designated a surrogate
546 to execute an advance directive, or the designated or alternate
547 surrogate is no longer available to make health care decisions,
548 health care decisions may be made for the patient by any of the
549 following individuals, in the following order of priority, if no
550 individual in a prior class is reasonably available, willing, or
551 competent to act:

552 (a) The judicially appointed guardian of the patient or the
553 guardian advocate of the person having a developmental
554 disability as defined in s. 393.063, who has been authorized to
555 consent to medical treatment, if such guardian has previously
556 been appointed; however, this paragraph shall not be construed
557 to require such appointment before a treatment decision can be
558 made under this subsection;

559 (b) The patient's spouse or domestic partner;

560 (c) An adult child of the patient, or if the patient has
561 more than one adult child, a majority of the adult children who
562 are reasonably available for consultation;

563 (d) A parent of the patient;



180026

564 (e) The adult sibling of the patient or, if the patient has
565 more than one sibling, a majority of the adult siblings who are
566 reasonably available for consultation;

567 (f) An adult relative of the patient who has exhibited
568 special care and concern for the patient and who has maintained
569 regular contact with the patient and who is familiar with the
570 patient's activities, health, and religious or moral beliefs; ~~or~~

571 (g) A close friend of the patient; or-

572 (h) A clinical social worker licensed pursuant to chapter
573 491, or who is a graduate of a court-approved guardianship
574 program. Such a proxy must be selected by the provider's
575 bioethics committee and must not be employed by the provider. If
576 the provider does not have a bioethics committee, then such a
577 proxy may be chosen through an arrangement with the bioethics
578 committee of another provider. The proxy will be notified that,
579 upon request, the provider shall make available a second
580 physician, not involved in the patient's care to assist the
581 proxy in evaluating treatment. Decisions to withhold or withdraw
582 life-prolonging procedures will be reviewed by the facility's
583 bioethics committee. Documentation of efforts to locate proxies
584 from prior classes must be recorded in the patient record.

585 Section 25. Subsections (1) and (3) of section 765.512,
586 Florida Statutes, are amended to read:

587 765.512 Persons who may make an anatomical gift.-

588 (1) Any person who may make a will may make an anatomical
589 gift of his or her body.

590 (a) If the decedent makes an anatomical gift by one of the
591 methods listed in s. 765.514(1), and in the absence of actual
592 notice of contrary indications by the decedent, the document or



180026

593 entry in the donor registry is legally sufficient evidence of
594 the decedent's informed consent to donate an anatomical gift.

595 (b) An anatomical gift made by a qualified donor and not
596 revoked by the donor, as provided in s. 765.516, is irrevocable
597 after the donor's death. A family member, including a domestic
598 partner, guardian, representative ad litem, or health care
599 surrogate may not modify, deny, or prevent a donor's wish or
600 intent to make an anatomical gift after the donor's death.

601 (3) If the decedent has not made an anatomical gift or
602 designated a health surrogate, a member of one of the classes of
603 persons listed below, in the order of priority listed and in the
604 absence of actual notice of contrary indications by the decedent
605 or actual notice of opposition by a member of a prior class, may
606 give all or any part of the decedent's body for any purpose
607 specified in s. 765.513:

608 (a) The spouse or domestic partner of the decedent;

609 (b) An adult son or daughter of the decedent;

610 (c) Either parent of the decedent;

611 (d) An adult brother or sister of the decedent;

612 (e) An adult grandchild of the decedent;

613 (f) A grandparent of the decedent;

614 (g) A close personal friend, as defined in s. 765.101;

615 (h) A guardian of the person of the decedent at the time of
616 his or her death; or

617 (i) A representative ad litem appointed by a court of
618 competent jurisdiction upon a petition heard ex parte filed by
619 any person, who shall ascertain that no person of higher
620 priority exists who objects to the gift of all or any part of
621 the decedent's body and that no evidence exists of the



180026

622 decedent's having made a communication expressing a desire that
623 his or her body or body parts not be donated upon death.

624
625 Those of higher priority who are reasonably available must be
626 contacted and made aware of the proposed gift and a reasonable
627 search must be conducted which shows that there would have been
628 no objection to the gift by the decedent.

629 Section 26. Subsection (1) of section 765.517, Florida
630 Statutes, is amended to read:

631 765.517 Rights and duties at death.—

632 (1) The donee, pursuant to s. 765.515(2), may accept or
633 reject an anatomical gift. If the donee accepts a gift to be
634 used for research or education purposes, the donee may authorize
635 embalming and the use of the body in funeral services, subject
636 to the terms of the gift. If the gift is of a part of the body,
637 the donee shall cause the part to be removed without unnecessary
638 mutilation upon the death of the donor and before or after
639 embalming. After removal of the body part, custody of the
640 remainder of the body vests in the surviving spouse, domestic
641 partner, next of kin, or other persons under obligation to
642 dispose of the body.

643 Section 27. Subsection (2) of section 872.04, Florida
644 Statutes, is amended to read:

645 872.04 Autopsies; consent required, exception.—

646 (2) Unless otherwise authorized by statute, no autopsy
647 shall be performed without the written consent by the health
648 care surrogate, as provided in s. 765.202, if one has been
649 designated. If a health care surrogate has not been designated,
650 then written consent may be provided by the spouse, domestic



180026

651 partner, nearest relative, or, if no such next of kin can be
652 found, the person who has assumed custody of the body for
653 purposes of burial. When two or more persons assume custody of
654 the body for such purposes, then the consent of any one of them
655 shall be sufficient to authorize the autopsy.

656 Section 28. This act shall take effect July 1, 2013.

657
658 ===== T I T L E A M E N D M E N T =====

659 And the title is amended as follows:

660 Delete everything before the enacting clause
661 and insert:

662 A bill to be entitled
663 An act relating to domestic partners; amending s.
664 28.24, F.S.; authorizing the clerk of the circuit
665 court to collect a filing fee for domestic partner
666 registrations; amending s. 382.009, F.S.; requiring
667 notification of a patient's domestic partner in the
668 event of the brain death of the patient; amending s.
669 394.459, F.S.; providing access to a mental health
670 patient by his or her domestic partner; amending s.
671 400.022, F.S.; requiring that nursing homes allow a
672 domestic partner access to his or her partner who is a
673 resident and requiring that the domestic partner be
674 allowed to meet with the families of other residents;
675 amending s. 406.50, F.S.; requiring notification of a
676 decedent's domestic partner before the decedent's body
677 can be used for medical education or research;
678 amending s. 408.051, F.S.; adding "domestic partner"
679 to the definition of the term "patient"



180026

680 representative"; amending s. 429.28, F.S.; requiring
681 that assisted living facilities allow domestic
682 partners to share a room; amending s. 429.85, F.S.;
683 requiring that adult family-care homes allow domestic
684 partners to share a room; amending s. 446.50, F.S.;
685 providing a cross-reference; amending s. 497.005,
686 F.S.; adding domestic partner to the individuals
687 regarded as legally authorized persons for purposes of
688 making funeral arrangements of a deceased; amending s.
689 497.152, F.S.; prohibiting the disposition or
690 disinterment of a decedent's body without written
691 authorization from his or her surviving domestic
692 partner; amending s. 741.01, F.S.; directing the
693 Executive Office of the Governor to establish a
694 Domestic Violence Trust Fund for the purpose of
695 collecting and disbursing funds generated from the
696 Declaration of Domestic Partnership fee; creating s.
697 741.501, F.S.; providing legislative findings;
698 creating s. 741.502, F.S.; providing definitions;
699 creating s. 741.503, F.S.; requiring the Department of
700 Health to adopt forms; creating s. 741.504, F.S.;
701 establishing requirements for domestic partnership;
702 providing criminal penalties for providing false
703 information; creating s. 741.505, F.S.; specifying
704 prohibitions to forming domestic partnerships under
705 certain circumstances; creating s. 741.506, F.S.;
706 identifying rights afforded to domestic partners;
707 providing for enforcement of such rights; creating s.
708 741.507, F.S.; providing fees for establishing and



180026

709 terminating a domestic partnership; creating s.
710 741.508, F.S.; providing methods to prove the
711 existence of a domestic partnership under certain
712 circumstances; creating s. 741.509, F.S.; providing
713 for termination of a domestic partnership; creating s.
714 741.510, F.S.; providing that the act does not preempt
715 the authority of a county or municipality to enact a
716 domestic partnership ordinance unless in conflict with
717 the act; amending s. 765.105, F.S.; including a
718 patient's domestic partner as one of several specified
719 persons who may seek judicial intervention to question
720 the patient's health care decision; amending s.
721 765.401, F.S.; adding a domestic partner to the list
722 of individuals who may serve as a health care proxy;
723 amending s. 765.512, F.S.; providing that a domestic
724 partner may make an anatomical gift on behalf of the
725 decedent; amending s. 765.517; adding a domestic
726 partner to the list of people who may receive
727 remainder of body parts after an anatomical gift;
728 amending s. 872.04, F.S.; requiring written
729 authorization of a domestic partner to perform an
730 autopsy on his or her deceased partner if no health
731 care surrogate has been designated; providing an
732 effective date.