

By Senator Sobel

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1                                   A bill to be entitled  
2       An act relating to domestic partners; amending s.  
3       28.24, F.S.; requiring the clerk of the circuit court  
4       to collect a filing fee for domestic partner  
5       registrations; amending s. 382.009, F.S.; requiring  
6       notification of a patient's domestic partner in the  
7       event of the brain death of the patient; amending s.  
8       394.459, F.S.; requiring a facility providing mental  
9       health services to authorize access to a patient by  
10      his or her domestic partner; amending s. 400.022,  
11      F.S.; requiring that nursing homes allow a domestic  
12      partner access to his or her partner who is a resident  
13      and requiring that the domestic partner be allowed to  
14      meet with the families of other residents; amending s.  
15      406.50, F.S.; including a domestic partner as a  
16      legally authorized person who may object to the use of  
17      unclaimed remains for medical education or research;  
18      requiring a person or entity in charge or in control  
19      of the remains of a deceased person to contact the  
20      decedent's domestic partner under certain  
21      circumstances; authorizing a funeral director to  
22      assume responsibility as the legally authorized person  
23      if a relative or domestic partner does not exist or is  
24      not available; amending s. 408.051, F.S.; adding the  
25      term "domestic partner" to the definition of the term  
26      "patient representative" as it relates to the Florida  
27      Electronic Health Records Exchange Act; amending s.  
28      429.28, F.S.; requiring that assisted living  
29      facilities allow domestic partners to share a room

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30 under specified circumstances; amending s. 429.85,  
31 F.S.; requiring that adult family-care homes allow  
32 domestic partners to share a room under specified  
33 circumstances; amending s. 446.50, F.S.; providing for  
34 the deposit of moneys generated from the fee charged  
35 for a Declaration of Domestic Partnership into the  
36 Displaced Homemaker Trust Fund; amending s. 497.005,  
37 F.S.; including a domestic partner as a legally  
38 authorized person who may make funeral arrangements  
39 for a decedent; amending s. 497.152, F.S.; adding the  
40 domestic partner to the list of persons whose written  
41 authorization must be obtained before the entombment,  
42 interment, disinterment, disentombment, or  
43 disinurnment of a person's remains; adding the  
44 domestic partner to the list of persons who may file a  
45 complaint with the licensee; amending s. 741.01, F.S.;  
46 requiring that funds generated from the Declaration of  
47 Domestic Partnership fee be deposited in and disbursed  
48 from the Domestic Violence Trust Fund; deleting a  
49 provision requiring funds to be appropriated to the  
50 Department of Children and Families for a specified  
51 purpose; creating s. 741.501, F.S.; providing  
52 legislative findings; creating s. 741.502, F.S.;  
53 defining terms; creating s. 741.503, F.S.; requiring  
54 the Department of Health to adopt forms; creating s.  
55 741.504, F.S.; establishing requirements for domestic  
56 partnership; providing criminal penalties for  
57 providing false information; creating s. 741.505,  
58 F.S.; specifying prohibitions to forming domestic

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59 partnerships under certain circumstances; creating s.  
60 741.506, F.S.; identifying rights afforded to domestic  
61 partners; providing for the enforcement of such  
62 rights; creating s. 741.507, F.S.; providing fees for  
63 establishing and terminating a domestic partnership;  
64 creating s. 741.508, F.S.; providing methods to prove  
65 the existence of a domestic partnership under certain  
66 circumstances; creating s. 741.509, F.S.; providing  
67 for termination of a domestic partnership; creating s.  
68 741.510, F.S.; providing that the act does not preempt  
69 the authority of a county or municipality to enact a  
70 domestic partnership ordinance that does not conflict  
71 with the act; amending s. 765.105, F.S.; including a  
72 patient's domestic partner as one of several specified  
73 persons who may seek judicial intervention to question  
74 the surrogate's or proxy's health care decisions;  
75 amending s. 765.401, F.S.; providing that a domestic  
76 partner may serve as a health care proxy; amending s.  
77 765.512, F.S.; providing that the domestic partner may  
78 make an anatomical gift on behalf of a decedent under  
79 certain circumstances; amending s. 765.517, F.S.;  
80 adding a domestic partner to the list of people who  
81 may receive the remainder of body parts after an  
82 anatomical gift; amending s. 872.04, F.S.; authorizing  
83 a domestic partner to provide written consent for an  
84 autopsy to be performed on his or her deceased partner  
85 if a health care surrogate has not been designated;  
86 providing an effective date.  
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88 Be It Enacted by the Legislature of the State of Florida:

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

92 28.24 Service charges.—The clerk of the circuit court shall  
93 charge for services rendered manually or electronically by the  
94 clerk’s office in recording documents and instruments and in  
95 performing other specified duties. These charges may not exceed  
96 those specified in this section, except as provided in s.  
97 28.345.

98

99

Charges

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101 (29) Upon receipt of a Declaration of Domestic Partnership,  
102 for preparing and administering of oath; issuing of the  
103 Certificate of Domestic Partnership and sealing and recording of  
104 the declaration; and providing a certified copy of the  
105 certificate. . . . . 30.00

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

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382.009 Recognition of brain death under certain  
circumstances.—

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

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117 Section 3. Paragraph (c) of subsection (5) of section  
118 394.459, Florida Statutes, is amended to read:

119 394.459 Rights of patients.—

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

121 (c) Each facility must permit immediate access to any  
122 patient, subject to the patient's right to deny or withdraw  
123 consent at any time, by the patient's family members, including  
124 the patient's domestic partner, guardian, guardian advocate,  
125 representative, Florida statewide or local advocacy council, or  
126 attorney, unless such access would be detrimental to the  
127 patient. If a patient's right to communicate or to receive  
128 visitors is restricted by the facility, written notice of such  
129 restriction and the reasons for the restriction shall be served  
130 on the patient, the patient's attorney, and the patient's  
131 guardian, guardian advocate, or representative; and such  
132 restriction shall be recorded on the patient's clinical record  
133 with the reasons therefor. The restriction of a patient's right  
134 to communicate or to receive visitors shall be reviewed at least  
135 every 7 days. The right to communicate or receive visitors may  
136 ~~shall~~ not be restricted as a means of punishment. ~~Nothing in~~  
137 This paragraph does not ~~shall be construed to~~ limit the  
138 provisions of paragraph (d).

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

141 400.022 Residents' rights.—

142 (1) All licensees of nursing home facilities shall adopt  
143 and make public a statement of the rights and responsibilities  
144 of the residents of such facilities and shall treat such  
145 residents in accordance with the provisions of that statement.

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146 The statement shall assure each resident the following:

147 (c) An ~~Any~~ entity or individual that provides health,  
148 social, legal, or other services to a resident has the right to  
149 ~~have~~ reasonable access to the resident. The resident has the  
150 right to deny or withdraw consent to access at any time by any  
151 entity or individual. Notwithstanding the visiting policy of the  
152 facility, the following individuals must be allowed ~~permitted~~  
153 immediate access to the resident:

154 1. A ~~Any~~ representative of the federal or state government,  
155 including, but not limited to, representatives of the Department  
156 of Children and Families, the Department of Health, the Agency  
157 for Health Care Administration, the Office of the Attorney  
158 General, and the Department of Elderly Affairs; a ~~any~~ law  
159 enforcement officer; members of the state or local ombudsman  
160 council; and the resident's individual physician.

161 2. Subject to the resident's right to deny or withdraw  
162 consent, immediate family, including the resident's domestic  
163 partner, or other relatives of the resident.

164  
165 The facility shall ~~must~~ allow representatives of the State Long-  
166 Term Care Ombudsman Council to examine a resident's clinical  
167 records with the permission of the resident or the resident's  
168 legal representative and consistent with state law.

169 (e) The right to organize and participate in resident  
170 groups in the facility and the right to have the resident's  
171 family, including the resident's domestic partner, meet in the  
172 facility with the families of other residents.

173 Section 5. Subsections (1), (2), and (3) of section 406.50,  
174 Florida Statutes, are amended to read:

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175 406.50 Unclaimed remains; disposition, procedure.—

176 (1) A person or entity that comes into possession, charge,  
177 or control of unclaimed remains that are required to be buried  
178 or cremated at public expense shall immediately notify the  
179 anatomical board, unless:

180 (a) The unclaimed remains are decomposed or mutilated by  
181 wounds;

182 (b) An autopsy is performed on the remains;

183 (c) The remains contain a contagious disease;

184 (d) A legally authorized person, including a domestic  
185 partner, objects to use of the remains for medical education or  
186 research; or

187 (e) The deceased person was a veteran of the United States  
188 Armed Forces, United States Reserve Forces, or National Guard  
189 and is eligible for burial in a national cemetery or was the  
190 spouse or dependent child of a veteran eligible for burial in a  
191 national cemetery.

192 (2) Before the final disposition of unclaimed remains, the  
193 person or entity in charge or control of the remains shall make  
194 a reasonable effort to:

195 (a) Determine the identity of the deceased person and  
196 contact any relatives, including a domestic partner, of the  
197 deceased person.

198 (b) Determine whether the deceased person is eligible under  
199 38 C.F.R. s. 38.620 for burial in a national cemetery as a  
200 veteran of the Armed Forces of the United States and, if  
201 eligible, to cause the deceased person's remains or cremated  
202 remains to be delivered to a national cemetery.

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204 For purposes of this subsection, "a reasonable effort" includes  
205 contacting the National Cemetery Scheduling Office, the county  
206 veterans service office, or the regional office of the United  
207 States Department of Veterans Affairs.

208 (3) Unclaimed remains shall be delivered to the anatomical  
209 board as soon as possible after death. If a relative or a  
210 domestic partner does not exist ~~When no family exists~~ or is not  
211 available, a funeral director licensed under chapter 497 may  
212 assume the responsibility of a legally authorized person and  
213 may, ~~after~~ after 24 hours or more after ~~have elapsed since~~ the time of  
214 death, authorize arterial embalming for the purposes of storage  
215 and delivery of unclaimed remains to the anatomical board. A  
216 funeral director licensed under chapter 497 is not liable for  
217 damages under this subsection.

218 Section 6. Paragraph (g) of subsection (2) of section  
219 408.051, Florida Statutes, is amended to read:

220 408.051 Florida Electronic Health Records Exchange Act.—

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

222 (g) "Patient representative" means a parent of a minor  
223 patient, a court-appointed guardian for the patient, a health  
224 care surrogate, or a person holding a power of attorney or  
225 notarized consent appropriately executed by the patient granting  
226 permission to a health care facility or health care provider to  
227 disclose the patient's health care information to that person.  
228 In the case of a deceased patient, the term also means the  
229 personal representative of the estate of the deceased patient;  
230 the deceased patient's surviving spouse, surviving domestic  
231 partner, surviving parent, or surviving adult child; the parent  
232 or guardian of a surviving minor child of the deceased patient;



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233 the attorney for the patient's surviving spouse, surviving  
234 domestic partner, surviving parent, or surviving adult child; or  
235 the attorney for the parent or guardian of a surviving minor  
236 child.

237 Section 7. Paragraph (g) of subsection (1) of section  
238 429.28, Florida Statutes, is amended to read:

239 429.28 Resident bill of rights.—

240 (1) No resident of a facility shall be deprived of any  
241 civil or legal rights, benefits, or privileges guaranteed by  
242 law, the Constitution of the State of Florida, or the  
243 Constitution of the United States as a resident of a facility.  
244 Every resident of a facility shall have the right to:

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

247 Section 8. Paragraph (g) of subsection (1) of section  
248 429.85, Florida Statutes, is amended to read:

249 429.85 Residents' bill of rights.—

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

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

257 Section 9. Paragraph (b) of subsection (5) of section  
258 446.50, Florida Statutes, is amended to read:

259 446.50 Displaced homemakers; multiservice programs; report  
260 to the Legislature; Displaced Homemaker Trust Fund created.—

261 (5) DISPLACED HOMEMAKER TRUST FUND.—

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262 (b) The trust fund shall receive funds generated from a fee  
263 on a Declaration of Domestic Partnership as specified in s.  
264 741.507 and funds generated from an additional fee on marriage  
265 license applications and dissolution of marriage filings as  
266 specified in ss. 741.01(3) and 28.101, respectively, and may  
267 receive funds from any other public or private source.

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

270 497.005 Definitions.—As used in this chapter, the term:

271 (39) "Legally authorized person" means, in the priority  
272 listed:

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

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

282 (c) The surviving spouse or domestic partner, unless the  
283 spouse or domestic partner has been arrested for committing  
284 against the deceased an act of domestic violence as defined in  
285 s. 741.28 which ~~that~~ resulted in or contributed to the death of  
286 the deceased;

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

288 (e) A parent;

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

290 (g) A grandchild who is 18 years of age or older;

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291 (h) A grandparent; or

292 (i) Any person in the next degree of kinship.

293

294 In addition, the term may include, if there are no existing or  
295 available ~~no~~ family members, including a domestic partner ~~member~~  
296 ~~exists or is available~~, the guardian of the dead person at the  
297 time of death; the personal representative of the deceased; the  
298 attorney in fact of the dead person at the time of death; the  
299 health surrogate of the dead person at the time of death; a  
300 public health officer; the medical examiner, county commission,  
301 or administrator acting under part II of chapter 406 or other  
302 public administrator; a representative of a nursing home or  
303 other health care institution in charge of final disposition; or  
304 a friend or other person not listed in this subsection who is  
305 willing to assume the responsibility as the legally authorized  
306 person. If ~~Where~~ there is a person in any priority class listed  
307 in this subsection, the funeral establishment shall rely upon  
308 the authorization of any one legally authorized person of that  
309 class if that person represents that she or he is not aware of  
310 any objection to the cremation of the deceased's human remains  
311 by others in the same class of the person making the  
312 representation or of any person in a higher priority class.

313 Section 11. Paragraph (e) of subsection (8) and paragraph  
314 (d) of subsection (14) of section 497.152, Florida Statutes, are  
315 amended to read:

316 497.152 Disciplinary grounds.—This section sets forth  
317 conduct that is prohibited and that shall constitute grounds for  
318 denial of any application, imposition of discipline, or other  
319 enforcement action against the licensee or other person

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320 committing such conduct. For purposes of this section, the  
321 requirements of this chapter include the requirements of rules  
322 adopted under authority of this chapter. No subsection heading  
323 in this section shall be interpreted as limiting the  
324 applicability of any paragraph within the subsection.

325 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF HUMAN  
326 REMAINS.—

327 (e) Failing to obtain written authorization from the family  
328 or next of kin of the deceased, including the deceased's  
329 domestic partner, before ~~prior to~~ entombment, interment,  
330 disinterment, disentombment, or disinurnment of the remains of  
331 any human being.

332 (14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY  
333 CUSTOMERS.—

334 (d) Failing to maintain a complete copy of every complaint  
335 received by the licensee since the date of the last examination  
336 of the licensee by the department. For purposes of this  
337 subsection, the term "complaint" means any written communication  
338 primarily expressing a grievance and which communication is  
339 from:

340 1. A representative or family member, including the  
341 domestic partner, of a deceased person interred at the  
342 licensee's facilities or using the licensee's services, or which  
343 deceased's remains were the subject of any service provided by  
344 the licensee or licensee's business; or

345 2. A person, or such person's representative or family  
346 member, including such person's domestic partner ~~or~~  
347 ~~representative,~~ who inquired of the licensee or licensee's  
348 business concerning the purchase of, or who purchased or

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349 contracted to purchase, any funeral or burial merchandise or  
350 services from the licensee or licensee's business.

351  
352 For purposes of this subsection, the response of a customer  
353 recorded by the customer on a customer satisfaction  
354 questionnaire or survey form sent to the customer by the  
355 licensee, and returned by the customer to the licensee, shall  
356 not be deemed to be a complaint.

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

359 741.01 County court judge or clerk of the circuit court to  
360 issue marriage license; fee.—

361 (2) The fee charged for each marriage license issued in the  
362 state shall be increased by the sum of \$25. This fee shall be  
363 collected upon receipt of the application for the issuance of a  
364 marriage license and remitted by the clerk to the Department of  
365 Revenue for deposit in the Domestic Violence Trust Fund. The  
366 Executive Office of the Governor shall establish a Domestic  
367 Violence Trust Fund for the purpose of collecting and disbursing  
368 funds generated from the increase in the marriage license fee  
369 and from the fee charged for each Declaration of Domestic  
370 Partnership as specified in s. 741.507. Such funds ~~which are~~  
371 ~~generated~~ shall be directed to the Department of Children and  
372 Families for the specific purpose of funding domestic violence  
373 centers, ~~and the funds shall be appropriated in a "grants-in-~~  
374 ~~aid" category to the Department of Children and Families for the~~  
375 ~~purpose of funding domestic violence centers.~~ From the proceeds  
376 of the surcharge deposited into the Domestic Violence Trust Fund  
377 as required under s. 938.08, the Executive Office of the

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378 Governor may spend up to \$500,000 each year for the purpose of  
379 administering a statewide public-awareness campaign regarding  
380 domestic violence.

381 Section 13. Section 741.501, Florida Statutes, is created  
382 to read:

383 741.501 Legislative findings.—The Legislature finds that:

384 (1) There is a significant number of individuals in this  
385 state who live together in personally, emotionally, and  
386 economically committed and important relationships who are not  
387 married under state law. These familial relationships are often  
388 referred to as domestic partnerships. The United States  
389 Decennial Census of 2010 indicates that more than 12 percent of  
390 Americans identified themselves as living in a domestic  
391 partnership.

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

396 (3) The status of marriage in this state is limited by Art.  
397 I of the State Constitution to the union of one man and one  
398 woman, and the Legislature does not seek to alter the definition  
399 of marriage in any way. However, the Legislature also finds that  
400 recognition of domestic partnerships can provide an alternative  
401 mechanism for extending certain important rights and  
402 responsibilities to individuals who choose to form long-term,  
403 mutually supportive relationships. Such recognition will provide  
404 support to these familial relationships without affecting the  
405 definition of marriage, without creating or recognizing a legal  
406 relationship that is the substantial equivalent of marriage, and

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407 without affecting restrictions contained in federal law. The  
408 Legislature does not intend to alter, affect, or contravene any  
409 municipal, county, state, or federal law that defines marriage  
410 or to recognize or treat a domestic partnership as a marriage.

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

414 Recognition of domestic partnerships will also promote employee  
415 recruitment, employee retention, employee loyalty for employers  
416 within this state, and economic development by attracting to  
417 this state companies that value diversity and protections for  
418 their employees. Therefore, the Legislature declares that it is  
419 the policy of this state to define and establish the rights and  
420 responsibilities of domestic partners.

421 Section 14. Section 741.502, Florida Statutes, is created  
422 to read:

423 741.502 Definitions.—As used in ss. 741.501-741.510, the  
424 term:

425 (1) "Correctional institution" means a penal, correctional,  
426 or detention facility operated by the state, one or more  
427 counties, a municipality, or a private corporation.

428 (2) "Domestic partner" means an individual who enters into  
429 a domestic partnership.

430 (3) "Domestic partnership" means a civil contract that  
431 meets the requirements of s. 741.504.

432 (4) "Health care facility" means a facility licensed under  
433 chapter 395, chapter 400, or chapter 429 or defined in s.  
434 394.455.

435 (5) "Mutual residence" means a residence that is shared,

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436 regardless of whether the individuals involved in a domestic  
437 partnership have an individual or joint legal right of  
438 possession to the property and regardless of whether either  
439 resident also resides in another dwelling.

440 Section 15. Section 741.503, Florida Statutes, is created  
441 to read:

442 741.503 Forms.—The Department of Health shall prepare and  
443 adopt the following forms:

444 (1) Declaration of Domestic Partnership.

445 (2) Certificate of Domestic Partnership.

446 (3) Notice of Termination of Domestic Partnership.

447 (4) Certificate of Termination of Domestic Partnership.

448 Section 16. Section 741.504, Florida Statutes, is created  
449 to read:

450 741.504 Domestic partnership requirements.—

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

454 (a) A statement attesting that each party is 18 years of  
455 age or older. The clerk may accept any reasonable proof of an  
456 individual's age, but the clerk shall accept a driver license or  
457 passport.

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

460 (c) A statement attesting that the parties share a mutual  
461 residence.

462 (d) A statement attesting that formation of the domestic  
463 partnership is not prohibited under s. 741.505.

464 (e) A mailing address for each party.



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

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

473 (3) If the Declaration of Domestic Partnership satisfies  
474 the requirements of this section and if the fees under s.  
475 747.507 are paid, the clerk of the circuit court shall:

476 (a) Record the Declaration of Domestic Partnership in the  
477 official records.

478 (b) Issue a Certificate of Domestic Partnership to the  
479 partners in person or at the mailing addresses provided.

480 Section 17. Section 741.505, Florida Statutes, is created  
481 to read:

482 741.505 Prohibitions to forming a domestic partnership.—A  
483 domestic partnership is prohibited if:

484 (1) Either party is married to a different person and such  
485 marriage is recognized by this state.

486 (2) Either party is a party to a domestic partnership with  
487 a different domestic partner and such domestic partnership is  
488 recognized by this state.

489 (3) The parties are related by lineal consanguinity or are  
490 siblings or if one party is the niece or nephew of the other  
491 party.

492 (4) Either party is incapable of making the civil contract  
493 or of consenting to the contract for want of legal age or

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494 sufficient understanding.

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

497 Section 18. Section 741.506, Florida Statutes, is created  
498 to read:

499 741.506 Domestic partnership; rights; enforcement.—

500 (1) A health care facility shall provide a domestic partner  
501 with the same right of visitation that the health care facility  
502 provides a spouse.

503 (2) A correctional institution shall grant a domestic  
504 partner the same visitation privileges that the correctional  
505 institution grants a spouse.

506 (3) A public or private entity that provides notice to a  
507 spouse or relative in the event of an emergency shall provide  
508 notice to a domestic partner.

509 (4) Domestic partners may jointly own property by tenancy  
510 by the entirety, and all legal attributes thereof, as is  
511 afforded to spouses.

512 (5) In the absence of a written designation of a health  
513 care surrogate, a domestic partner has the same right to serve  
514 as proxy, as defined in chapter 765, as a spouse.

515 (6) A decedent's domestic partner may act as a  
516 representative of the decedent and:

517 (a) Direct the disposition of the decedent's body as  
518 provided in chapters 382, 406, 497, 765, and 872;

519 (b) Give or withhold consent for a health care provider to  
520 release or access the decedent's identifiable health record as  
521 provided in s. 408.051; and

522 (c) Have the decedent's records forwarded to the domestic

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523 partner as provided in s. 408.810.

524 (7) A violation of this section may be enforced by private  
525 cause of action filed in any court of competent jurisdiction for  
526 declaratory relief, injunctive relief, or both. The prevailing  
527 party is entitled to recover attorney fees.

528 Section 19. Section 741.507, Florida Statutes, is created  
529 to read:

530 741.507 Fees.—

531 (1) Upon receipt of a Declaration of Domestic Partnership,  
532 the clerk of the circuit court shall collect:

533 (a) A fee of \$30 for service charges, as provided in s.  
534 28.24(29).

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

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

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

541 (e) A fee of \$7.50 to be remitted to the Department of  
542 Revenue for deposit into the Displaced Homemaker Trust Fund.

543 (2) An applicant for a Certificate of Domestic Partnership  
544 who cannot pay the fees required under subsection (1) in a lump  
545 sum may make payment in not more than three installments over a  
546 period of 90 days. The clerk shall accept installment payments  
547 upon receipt of an affidavit that the applicant cannot pay the  
548 fees in a lump-sum payment. Upon receipt of the third or final  
549 installment payment, the Declaration of Domestic Partnership  
550 shall be deemed filed, and the clerk shall issue the Certificate  
551 of Domestic Partnership and distribute the fees as provided in

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552 subsection (1). If the fees are paid in installments, the clerk  
553 shall retain \$1 from the fee imposed under paragraph (1)(b) as a  
554 processing fee.

555 (3) Upon receipt of a Notice of Termination of Domestic  
556 Partnership, as provided in s. 741.509, the clerk of the circuit  
557 court shall collect a fee of \$10.

558 Section 20. Section 741.508, Florida Statutes, is created  
559 to read:

560 741.508 Proof of domestic partnership if certificate is not  
561 available.—

562 (1) If a Certificate of Domestic Partnership is not  
563 available, the domestic partnership may be proved by an  
564 affidavit before any officer authorized to administer oaths  
565 which is made by two competent witnesses who were present and  
566 witnessed the Declaration of Domestic Partnership executed. For  
567 purposes of this section, a Certificate of Domestic Partnership  
568 is not available if:

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

571 (b) The certificate is lost; or

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

574 (2) The clerk of the circuit court of the county in which  
575 the Declaration of Domestic Partnership originally was executed,  
576 or, if a Declaration of Domestic Partnership has not been  
577 executed, the clerk of the circuit court of any county in this  
578 state, shall file and record the affidavit and shall issue a new  
579 certificate, which has the same force and effect as the  
580 original.

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581 Section 21. Section 741.509, Florida Statutes, is created  
582 to read:

583 741.509 Termination of partnership.—

584 (1) A party to a domestic partnership may terminate the  
585 partnership by filing a Notice of Termination of Domestic  
586 Partnership with the clerk of the circuit court and by paying  
587 the filing fee established under s. 741.507. The notice must be  
588 signed by at least one of the parties and notarized. If the  
589 notice is not signed by both parties, the party who seeks  
590 termination must also file with the clerk an affidavit stating  
591 that:

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

594 (b) The party who seeks termination has not been able to  
595 find the other party after reasonable effort and that notice has  
596 been made pursuant to s. 50.011 by publication in a newspaper of  
597 general circulation in the county in which the domestic partners  
598 were last domiciled.

599 (2) The domestic partnership is terminated effective 90  
600 days after the date of filing the notice of termination and  
601 payment of the filing fee under s. 741.507.

602 (3) Upon receipt of a signed, notarized notice of  
603 termination, affidavit, if required, and filing fee, the clerk  
604 of the circuit court shall file the Notice of Termination of  
605 Domestic Partnership and issue a Certificate of Termination of  
606 Domestic Partnership to each party in person or at the mailing  
607 address provided on the notice.

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

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610 (a) Either party or both parties enter into a marriage that  
611 is recognized as valid in this state, with each other or with  
612 another person; or

613 (b) One party dies, except that the death of a domestic  
614 partner does not extinguish the surviving domestic partner's  
615 rights with respect to the medical record of, or information  
616 relating to, the decedent and with respect to the disposition of  
617 the decedent's body and the decedent's funeral arrangements.

618 (5) If a domestic partnership is automatically terminated,  
619 at least one party must file a notice of termination with the  
620 clerk of the circuit court within 30 days after the event  
621 causing the automatic termination.

622 Section 22. Section 741.510, Florida Statutes, is created  
623 to read:

624 741.510 Preemption.—Sections 741.501-741.509 do not preempt  
625 the authority of a county or municipality to enact a domestic  
626 partnership ordinance that is not in conflict with these  
627 sections.

628 Section 23. Section 765.105, Florida Statutes, is amended  
629 to read:

630 765.105 Review of surrogate or proxy's decision.—The  
631 patient's family, including the patient's domestic partner, the  
632 health care facility, or the attending physician, or any other  
633 interested person who may reasonably be expected to be directly  
634 affected by the surrogate or proxy's decision concerning any  
635 health care decision may seek expedited judicial intervention  
636 pursuant to rule 5.900 of the Florida Probate Rules, if that  
637 person believes:

638 (1) The surrogate or proxy's decision is not in accord with

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639 the patient's known desires or the provisions of this chapter;

640 (2) The advance directive is ambiguous, or the patient has  
641 changed his or her mind after execution of the advance  
642 directive;

643 (3) The surrogate or proxy was improperly designated or  
644 appointed, or the designation of the surrogate is no longer  
645 effective or has been revoked;

646 (4) The surrogate or proxy has failed to discharge duties,  
647 or incapacity or illness renders the surrogate or proxy  
648 incapable of discharging duties;

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

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

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

654 765.401 The proxy.—

655 (1) If an incapacitated or developmentally disabled patient  
656 has not executed an advance directive, or designated a surrogate  
657 to execute an advance directive, or the designated or alternate  
658 surrogate is no longer available to make health care decisions,  
659 health care decisions may be made for the patient by any of the  
660 following individuals, in the following order of priority, if no  
661 individual in a prior class is reasonably available, willing, or  
662 competent to act:

663 (a) The judicially appointed guardian of the patient or the  
664 guardian advocate of the person having a developmental  
665 disability as defined in s. 393.063, who has been authorized to  
666 consent to medical treatment, if such guardian has previously  
667 been appointed; however, this paragraph does ~~shall~~ not ~~be~~

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668 ~~construed to~~ require such appointment before a treatment  
669 decision can be made under this subsection;

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

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

674 (d) A parent of the patient;

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

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

682 (g) A close friend of the patient; or;

683 (h) A clinical social worker licensed under ~~pursuant to~~  
684 chapter 491, or who is a graduate of a court-approved  
685 guardianship program. ~~Such a proxy must be selected by~~ The  
686 provider's bioethics committee shall select such a proxy, who  
687 may and must not be employed by the provider. If the provider  
688 does not have a bioethics committee, ~~then~~ such a proxy may be  
689 chosen through an arrangement with the bioethics committee of  
690 another provider. The proxy will be notified that, upon request,  
691 the provider shall make available a second physician, not  
692 involved in the patient's care to assist the proxy in evaluating  
693 treatment. Decisions to withhold or withdraw life-prolonging  
694 procedures will be reviewed by the facility's bioethics  
695 committee. Documentation of efforts to locate proxies from prior  
696 classes must be recorded in the patient record.



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697 Section 25. Subsections (1), (3), and (6) of section  
698 765.512, Florida Statutes, are amended to read:

699 765.512 Persons who may make an anatomical gift.—

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

702 (a) If the decedent makes an anatomical gift by one of the  
703 methods listed in s. 765.514(1), and in the absence of actual  
704 notice of contrary indications by the decedent, the document or  
705 entry in the donor registry is legally sufficient evidence of  
706 the decedent's informed consent to donate an anatomical gift.

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

713 (3) If the decedent has not made an anatomical gift or  
714 designated a health surrogate, a member of one of the classes of  
715 persons listed in this subsection ~~below~~, in the order of  
716 priority listed and in the absence of actual notice of contrary  
717 indications by the decedent or actual notice of opposition by a  
718 member of a prior class, may give all or any part of the  
719 decedent's body for any purpose specified in s. 765.513:

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

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

722 (c) Either parent of the decedent;

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

724 (e) An adult grandchild of the decedent;

725 (f) A grandparent of the decedent;

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- 726 (g) A close personal friend, as defined in s. 765.101;
- 727 (h) A guardian of the person of the decedent at the time of
- 728 his or her death; or
- 729 (i) A representative ad litem appointed by a court of
- 730 competent jurisdiction upon a petition heard ex parte filed by
- 731 any person, who shall ascertain that no person of higher
- 732 priority exists who objects to the gift of all or any part of
- 733 the decedent's body and that no evidence exists of the
- 734 decedent's having made a communication expressing a desire that
- 735 his or her body or body parts not be donated upon death.

736

737 Those of higher priority who are reasonably available must be

738 contacted and made aware of the proposed gift and a reasonable

739 search must be conducted which shows that there would have been

740 no objection to the gift by the decedent.

741 (6) An anatomical gift authorizes:

742 (a) Any examination necessary to assure medical

743 acceptability of the gift for the purposes intended.

744 (b) The decedent's medical provider, family, including a

745 domestic partner, or a third party to furnish medical records

746 requested concerning the decedent's medical and social history.

747 Section 26. Subsection (1) of section 765.517, Florida

748 Statutes, is amended to read:

749 765.517 Rights and duties at death.—

750 (1) The donee, pursuant to s. 765.515(2), may accept or

751 reject an anatomical gift. If the donee accepts a gift to be

752 used for research or education purposes, the donee may authorize

753 embalming and the use of the body in funeral services, subject

754 to the terms of the gift. If the gift is of a part of the body,

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755 the donee shall cause the part to be removed without unnecessary  
756 mutilation upon the death of the donor and before or after  
757 embalming. After removal of the body part, custody of the  
758 remainder of the body vests in the surviving spouse, domestic  
759 partner, next of kin, or other persons under obligation to  
760 dispose of the body.

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

763 872.04 Autopsies; consent required, exception.—

764 (2) Unless otherwise authorized by statute, an ~~ne~~ autopsy  
765 may not shall be performed without the written consent of ~~by~~ the  
766 health care surrogate, as provided in s. 765.202, if one has  
767 been designated. If a health care surrogate has not been  
768 designated, ~~then written consent may be provided by~~ the spouse,  
769 domestic partner, nearest relative, or, if no such next of kin  
770 can be found, the person who has assumed custody of the body for  
771 purposes of burial may provide written consent. When two or more  
772 persons assume custody of the body for such purposes, ~~then~~ the  
773 consent of any one of them is ~~shall be~~ sufficient to authorize  
774 the autopsy.

775 Section 28. This act shall take effect July 1, 2015.