

1 A bill to be entitled
2 An act relating to domestic partnerships; 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 of or in
19 control of the remains to make a reasonable effort to
20 determine the identity of the decedent and contact the
21 decedent's relatives, including the domestic partner;
22 authorizing a funeral director to assume
23 responsibility as the legally authorized person if
24 there is no relative or domestic partner; amending s.
25 408.051, F.S.; adding "domestic partner" to the
26 definition of the term "patient representative" as it

27 | relates to the Florida Electronic Health Records
28 | Exchange Act; amending s. 429.28, F.S.; requiring that
29 | assisted living facilities allow domestic partners to
30 | share a room; amending s. 429.85, F.S.; requiring that
31 | adult family-care homes allow domestic partners to
32 | share a room; amending s. 446.50, F.S.; providing for
33 | deposit of moneys generated from the fee charged for a
34 | Declaration of Domestic Partnership into the Displaced
35 | Homemaker Trust Fund; amending s. 497.005, F.S.;
36 | including a domestic partner as a legally authorized
37 | person who may make funeral arrangements for a
38 | decedent; amending s. 497.152, F.S.; adding the
39 | domestic partner to the list of persons whose written
40 | authorization must be obtained prior to the
41 | entombment, interment, disinterment, disentombment, or
42 | disinurnment of a person's remains; amending s.
43 | 741.01, F.S.; requiring that funds generated from the
44 | Declaration of Domestic Partnership fee be deposited
45 | in and disbursed from the Domestic Violence Trust
46 | Fund; creating s. 741.501, F.S.; providing legislative
47 | findings; creating s. 741.502, F.S.; providing
48 | definitions; creating s. 741.503, F.S.; requiring the
49 | Department of Health to adopt forms; creating s.
50 | 741.504, F.S.; establishing requirements for domestic
51 | partnership; providing criminal penalties for
52 | providing false information; creating s. 741.505,

53 F.S.; specifying prohibitions to forming domestic
54 partnerships under certain circumstances; creating s.
55 741.506, F.S.; identifying rights afforded to domestic
56 partners; providing for the enforcement of such
57 rights; creating s. 741.507, F.S.; providing fees for
58 establishing and terminating a domestic partnership;
59 creating s. 741.508, F.S.; providing methods to prove
60 the existence of a domestic partnership under certain
61 circumstances; creating s. 741.509, F.S.; providing
62 for termination of a domestic partnership; creating s.
63 741.510; providing that the act does not preempt the
64 authority of a county or municipality to enact a
65 domestic partnership ordinance that does not conflict
66 with the act; amending s. 765.105, F.S.; including a
67 patient's domestic partner as one of several specified
68 persons who may seek judicial intervention to question
69 the surrogate's or proxy's health care decisions;
70 amending s. 765.401, F.S.; providing that a domestic
71 partner may serve as a health care proxy; amending s.
72 765.512, F.S.; providing that the domestic partner may
73 make an anatomical gift on behalf of a decedent;
74 amending s. 765.517; adding a domestic partner to the
75 list of people who may receive the remainder of body
76 parts after an anatomical gift; amending s. 768.18,
77 F.S.; revising the definition of the term "survivors"
78 to include domestic partners; amending s. 872.04,

79 F.S.; requiring written authorization of a domestic
 80 partner to perform an autopsy on his or her deceased
 81 partner if no health care surrogate has been
 82 designated; providing an effective date.

83

84 Be It Enacted by the Legislature of the State of Florida:

85

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

88 28.24 Service charges.—The clerk of the circuit court
 89 shall charge for services rendered manually or electronically by
 90 the clerk's office in recording documents and instruments and in
 91 performing other specified duties. These charges may not exceed
 92 those specified in this section, except as provided in s.
 93 28.345.

94

95 Charges

96

97 (29) Upon receipt of a Declaration of Domestic
 98 Partnership, for preparation and administration of oath and for
 99 filing and providing a certified copy of the declaration..30.00.

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

102 382.009 Recognition of brain death under certain
 103 circumstances.—

104 (3) The next of kin of the patient, including the domestic

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

111 Section 3. Paragraph (c) of subsection (5) of section
112 394.459, Florida Statutes, is amended to read:

113 394.459 Rights of patients.—

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

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

131 This paragraph does not ~~shall be construed to~~ limit the
 132 provisions of paragraph (d).

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

135 400.022 Residents' rights.—

136 (1) All licensees of nursing home facilities shall adopt
 137 and make public a statement of the rights and responsibilities
 138 of the residents of such facilities and shall treat such
 139 residents in accordance with the provisions of that statement.
 140 The statement shall assure each resident the following:

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

148 1. A ~~Any~~ representative of the federal or state
 149 government, including, but not limited to, representatives of
 150 the Department of Children and Families, the Department of
 151 Health, the Agency for Health Care Administration, the Office of
 152 the Attorney General, and the Department of Elderly Affairs; a
 153 ~~any~~ law enforcement officer; a ~~any~~ representative of the State
 154 Long-Term Care Ombudsman Program; and the resident's individual
 155 physician.

156 2. Subject to the resident's right to deny or withdraw

157 consent, immediate family, including the resident's domestic
158 partner, or other relatives of the resident.

159

160 The facility shall ~~must~~ allow representatives of the State Long-
161 Term Care Ombudsman Program to examine a resident's clinical
162 records with the permission of the resident or the resident's
163 legal representative and consistent with state law.

164 (e) The right to organize and participate in resident
165 groups in the facility and the right to have the resident's
166 family, including the resident's domestic partner, meet in the
167 facility with the families of other residents.

168 Section 5. Subsections (1), (2), and (3) of section
169 406.50, Florida Statutes, are amended to read:

170 406.50 Unclaimed remains; disposition, procedure.—

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

175 (a) The unclaimed remains are decomposed or mutilated by
176 wounds;

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

178 (c) The remains contain a contagious disease;

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

182 (e) The deceased person was a veteran of the United States

183 Armed Forces, United States Reserve Forces, or National Guard
 184 and is eligible for burial in a national cemetery or was the
 185 spouse or dependent child of a veteran eligible for burial in a
 186 national cemetery.

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

190 (a) Determine the identity of the deceased person and
 191 contact any relatives, including a domestic partner, of the
 192 deceased person.

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

198
 199 For purposes of this subsection, "a reasonable effort" includes
 200 contacting the National Cemetery Scheduling Office, the county
 201 veterans service office, or the regional office of the United
 202 States Department of Veterans Affairs.

203 (3) Unclaimed remains shall be delivered to the anatomical
 204 board as soon as possible after death. If a relative or a
 205 domestic partner does not exist ~~When no family exists~~ or is not
 206 available, a funeral director licensed under chapter 497 may
 207 assume the responsibility of a legally authorized person and
 208 may, ~~after~~ 24 hours or more after ~~have elapsed since~~ the time of

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209 death, authorize arterial embalming for the purposes of storage
210 and delivery of unclaimed remains to the anatomical board. A
211 funeral director licensed under chapter 497 is not liable for
212 damages under this subsection.

213 Section 6. Paragraph (g) of subsection (2) of section
214 408.051, Florida Statutes, is amended to read:

215 408.051 Florida Electronic Health Records Exchange Act.—

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

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

232 Section 7. Paragraph (g) of subsection (1) of section
233 429.28, Florida Statutes, is amended to read:

234 429.28 Resident bill of rights.—

235 (1) No resident of a facility shall be deprived of any
 236 civil or legal rights, benefits, or privileges guaranteed by
 237 law, the Constitution of the State of Florida, or the
 238 Constitution of the United States as a resident of a facility.
 239 Every resident of a facility shall have the right to:

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

242 Section 8. Paragraph (g) of subsection (1) of section
 243 429.85, Florida Statutes, is amended to read:

244 429.85 Residents' bill of rights.—

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

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

252 Section 9. Paragraph (b) of subsection (5) of section
 253 446.50, Florida Statutes, is amended to read:

254 446.50 Displaced homemakers; multiservice programs; report
 255 to the Legislature; Displaced Homemaker Trust Fund created.—

256 (5) DISPLACED HOME MAKER TRUST FUND.—

257 (b) The trust fund shall receive funds generated from the
 258 fee charged for each Declaration of Domestic Partnership as
 259 specified in s. 741.507 and funds generated from an additional
 260 fee on marriage license applications and dissolution of marriage

261 filings as specified in ss. 741.01(3) and 28.101, respectively,
 262 and may receive funds from any other public or private source.

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

265 497.005 Definitions.—As used in this chapter, the term:

266 (39) "Legally authorized person" means, in the priority
 267 listed:

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

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

277 (c) The surviving spouse or domestic partner, unless the
 278 spouse or domestic partner has been arrested for committing
 279 against the deceased an act of domestic violence as defined in
 280 s. 741.28 which ~~that~~ resulted in or contributed to the death of
 281 the deceased;

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

283 (e) A parent;

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

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

286 (h) A grandparent; or

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

288
 289 In addition, the term may include, if there are no existing or
 290 available ~~no~~ family members, including a domestic partner member
 291 ~~exists or is available~~, the guardian of the dead person at the
 292 time of death; the personal representative of the deceased; the
 293 attorney in fact of the dead person at the time of death; the
 294 health surrogate of the dead person at the time of death; a
 295 public health officer; the medical examiner, county commission,
 296 or administrator acting under part II of chapter 406 or other
 297 public administrator; a representative of a nursing home or
 298 other health care institution in charge of final disposition; or
 299 a friend or other person not listed in this subsection who is
 300 willing to assume the responsibility as the legally authorized
 301 person. If ~~Where~~ there is a person in any priority class listed
 302 in this subsection, the funeral establishment shall rely upon
 303 the authorization of any one legally authorized person of that
 304 class if that person represents that she or he is not aware of
 305 any objection to the cremation of the deceased's human remains
 306 by others in the same class of the person making the
 307 representation or of any person in a higher priority class.

308 Section 11. Paragraph (e) of subsection (8) of section
 309 497.152, Florida Statutes, is amended to read:

310 497.152 Disciplinary grounds.—This section sets forth
 311 conduct that is prohibited and that shall constitute grounds for
 312 denial of any application, imposition of discipline, or other

313 enforcement action against the licensee or other person
314 committing such conduct. For purposes of this section, the
315 requirements of this chapter include the requirements of rules
316 adopted under authority of this chapter. No subsection heading
317 in this section shall be interpreted as limiting the
318 applicability of any paragraph within the subsection.

319 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF
320 HUMAN REMAINS.—

321 (e) Failing to obtain written authorization from the
322 family or next of kin of the deceased, including the deceased's
323 domestic partner, before ~~prior to~~ entombment, interment,
324 disinterment, disentombment, or disinurnment of the remains of
325 any human being.

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

328 741.01 County court judge or clerk of the circuit court to
329 issue marriage license; fee.—

330 (2) The fee charged for each marriage license issued in
331 the state shall be increased by the sum of \$25. This fee shall
332 be collected upon receipt of the application for the issuance of
333 a marriage license and remitted by the clerk to the Department
334 of Revenue for deposit in the Domestic Violence Trust Fund. The
335 Executive Office of the Governor shall establish a Domestic
336 Violence Trust Fund for the purpose of collecting and disbursing
337 funds generated from the increase in the marriage license fee
338 and from the fee charged for each Declaration of Domestic

339 Partnership as specified in s. 741.507. Such funds ~~which are~~
340 ~~generated~~ shall be appropriated in a "grants-in-aid" category to
341 the Department of Children and Families ~~directed to the~~
342 ~~Department of Children and Families~~ for the specific purpose of
343 funding domestic violence centers, ~~and the funds shall be~~
344 ~~appropriated in a "grants-in-aid" category to the Department of~~
345 ~~Children and Families for the purpose of funding domestic~~
346 ~~violence centers.~~ From the proceeds of the surcharge deposited
347 into the Domestic Violence Trust Fund as required under s.
348 938.08, the Executive Office of the Governor may spend up to
349 \$500,000 each year for the purpose of administering a statewide
350 public-awareness campaign regarding domestic violence.

351 Section 13. Section 741.501, Florida Statutes, is created
352 to read:

353 741.501 Legislative findings.—The Legislature finds that:

354 (1) There is a significant number of individuals in this
355 state who live together in personally, emotionally, and
356 economically committed and important relationships who are not
357 married under state law. These familial relationships are often
358 referred to as domestic partnerships. The 2010 census indicates
359 that more than 12 percent of Americans identified themselves as
360 living in a domestic partnership.

361 (2) This law does not alter, affect, or contravene any
362 municipal, county, state, or federal law that defines marriage
363 and may not be interpreted as recognizing or treating a domestic
364 partnership as a marriage.

365 (3) Because of the material and other support that
366 domestic partnerships provide to their participants, these
367 relationships should be formally recognized and made uniform by
368 law. Recognition of domestic partnerships will also promote
369 employee recruitment, employee retention, employee loyalty for
370 employers within this state, and economic development by
371 attracting to this state companies that value diversity and
372 protections for their employees. Therefore, the Legislature
373 declares that it is the policy of this state to establish and
374 define the rights and responsibilities of domestic partners.

375 Section 14. Section 741.502, Florida Statutes, is created
376 to read:

377 741.502 Definitions.—As used in ss. 741.501-741.510, the
378 term:

379 (1) "Correctional facility" means a penal, correctional,
380 or detention facility operated by the state, one or more
381 counties, a municipality, or a private corporation.

382 (2) "Domestic partner" means a person who enters into a
383 domestic partnership.

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

386 (4) "Health care facility" means a facility licensed under
387 chapter 395, chapter 400, or chapter 429 or defined in s.
388 394.455.

389 (5) "Mutual residence" means a residence that is shared,
390 regardless of whether the individuals involved in a domestic

391 partnership have an individual or joint legal right of
 392 possession to the property and regardless of whether either
 393 resident also resides in another dwelling.

394 Section 15. Section 741.503, Florida Statutes, is created
 395 to read:

396 741.503 Forms.—The Department of Health shall prepare and
 397 adopt the following forms:

- 398 (1) Declaration of Domestic Partnership.
- 399 (2) Certificate of Domestic Partnership.
- 400 (3) Notice of Termination of Domestic Partnership.
- 401 (4) Certificate of Termination of Domestic Partnership.

402 Section 16. Section 741.504, Florida Statutes, is created
 403 to read:

404 741.504 Domestic partnership requirements.—

- 405 (1) A domestic partnership may be formed by filing a
 406 Declaration of Domestic Partnership form with a clerk of the
 407 circuit court in any county. The declaration must include:
 - 408 (a) A statement attesting that each party is 18 years of
 409 age or older. The clerk may accept any reasonable proof of an
 410 individual's age, but the clerk shall accept a driver license or
 411 passport.
 - 412 (b) A statement attesting that at least one of the parties
 413 is a resident of this state.
 - 414 (c) A statement attesting that the parties share a mutual
 415 residence.
 - 416 (d) A statement attesting that formation of the domestic

417 partnership is not prohibited under s. 741.505.

418 (e) A mailing address for each party.

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

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

427 (3) If the Declaration of Domestic Partnership satisfies
 428 the requirements of this section, the clerk of the circuit court
 429 shall:

430 (a) Record the Declaration of Domestic Partnership in the
 431 official records.

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

434 Section 17. Section 741.505, Florida Statutes, is created
 435 to read:

436 741.505 Prohibitions to forming a domestic partnership.—A
 437 domestic partnership is prohibited if:

438 (1) Either party is married to a different person.

439 (2) Either party is a party to a domestic partnership with
 440 a different domestic partner and such domestic partnership is
 441 recognized by this state.

442 (3) The parties are related by lineal consanguinity or are

443 siblings or if one party is the niece or nephew of the other
444 party.

445 (4) Either party is incapable of making the civil contract
446 or of consenting to the contract for want of legal age or
447 sufficient understanding.

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

450 Section 18. Section 741.506, Florida Statutes, is created
451 to read:

452 741.506 Domestic partnership; rights; enforcement.—

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

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

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

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

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

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

468 (a) Direct the disposition of the decedent's body as

469 provided in chapters 382, 406, 497, 765, and 872;

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

473 (c) Have the decedent's records forwarded to the domestic
474 partner as provided in s. 408.810.

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

479 Section 19. Section 741.507, Florida Statutes, is created
480 to read:

481 741.507 Fees.—

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

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

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

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

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

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

493 (2) An applicant for a Certificate of Domestic Partnership
494 who cannot pay the fees required under subsection (1) in a lump

495 sum may make payment in not more than three installments over a
496 period of 90 days. The clerk shall accept installment payments
497 upon receipt of an affidavit that the applicant cannot pay the
498 fees in a lump-sum payment. Upon receipt of the third or final
499 installment payment, the Declaration of Domestic Partnership
500 shall be deemed filed, and the clerk shall issue the Certificate
501 of Domestic Partnership and distribute the fees as provided in
502 subsection (1). If the fees are paid in installments, the clerk
503 shall retain \$1 from the fee imposed pursuant to paragraph
504 (1) (b) as a processing fee.

505 (3) Upon receipt of a Notice of Termination of Domestic
506 Partnership, the clerk of the circuit court shall collect and
507 receive a fee of \$10.

508 Section 20. Section 741.508, Florida Statutes, is created
509 to read:

510 741.508 Proof of domestic partnership if certificate is
511 not available.—

512 (1) If the Certificate of Domestic Partnership is not
513 available, the domestic partnership may be proved by an
514 affidavit before any officer authorized to administer oaths
515 which is made by two competent witnesses who were present and
516 witnessed the Declaration of Domestic Partnership executed.

517 (2) The clerk of the circuit court of the county in which
518 the Declaration of Domestic Partnership originally was executed
519 shall file and record the affidavit and shall issue a new
520 certificate, which has the same force and effect as the

521 original.

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

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

526 (b) The certificate is lost; or

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

529 Section 21. Section 741.509, Florida Statutes, is created
530 to read:

531 741.509 Termination of partnership.—

532 (1) A party to a domestic partnership may terminate the
533 partnership by filing a Notice of Termination of Domestic
534 Partnership with the clerk of the circuit court and by paying
535 the filing fee established under s. 741.507. The notice must be
536 signed by at least one of the parties and notarized. If the
537 notice is not signed by both parties, the party who seeks
538 termination must also file with the clerk an affidavit stating
539 that:

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

543 (b) The party who seeks termination has not been able to
544 find the other party after reasonable effort and that notice has
545 been made pursuant to s. 50.011 by publication in a newspaper of
546 general circulation in the county in which the domestic partners

547 were last domiciled.

548 (2) The domestic partnership is terminated effective 90
549 days after the date of filing the notice of termination and
550 payment of the filing fee.

551 (3) Upon receipt of a signed, notarized notice of
552 termination, affidavit, if required, and filing fee, the clerk
553 of the circuit court shall file the notice of termination and
554 issue a Certificate of Termination of Domestic Partnership to
555 each party in person or at the mailing address provided on the
556 notice.

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

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

562 (b) One party dies, except that the death of a domestic
563 partner does not extinguish the surviving domestic partner's
564 rights with respect to the medical record of, or information
565 relating to, the decedent and with respect to the disposition of
566 the decedent's body and the decedent's funeral arrangements.

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

571 Section 22. Section 741.510, Florida Statutes, is created
572 to read:

573 741.510 Preemption.—Sections 741.501-741.509 do not
 574 preempt the authority of a county or municipality to enact a
 575 domestic partnership ordinance that is not in conflict with
 576 these sections.

577 Section 23. Section 765.105, Florida Statutes, is amended
 578 to read:

579 765.105 Review of surrogate or proxy's decision.—

580 (1) The patient's family, including the patient's domestic
 581 partner, the health care facility, or the primary physician, or
 582 any other interested person who may reasonably be expected to be
 583 directly affected by the surrogate or proxy's decision
 584 concerning any health care decision may seek expedited judicial
 585 intervention pursuant to rule 5.900 of the Florida Probate
 586 Rules, if that person believes:

587 (a) The surrogate or proxy's decision is not in accord
 588 with the patient's known desires or this chapter;

589 (b) The advance directive is ambiguous, or the patient has
 590 changed his or her mind after execution of the advance
 591 directive;

592 (c) The surrogate or proxy was improperly designated or
 593 appointed, or the designation of the surrogate is no longer
 594 effective or has been revoked;

595 (d) The surrogate or proxy has failed to discharge duties,
 596 or incapacity or illness renders the surrogate or proxy
 597 incapable of discharging duties;

598 (e) The surrogate or proxy has abused his or her powers;

599 | or

600 | (f) The patient has sufficient capacity to make his or her
601 | own health care decisions.

602 | (2) This section does not apply to a patient who is not
603 | incapacitated and who has designated a surrogate who has
604 | immediate authority to make health care decisions or receive
605 | health information, or both, on behalf of the patient.

606 | Section 24. Subsection (1) of section 765.401, Florida
607 | Statutes, is amended to read:

608 | 765.401 The proxy.—

609 | (1) If an incapacitated or developmentally disabled
610 | patient has not executed an advance directive, or designated a
611 | surrogate to execute an advance directive, or the designated or
612 | alternate surrogate is no longer available to make health care
613 | decisions, health care decisions may be made for the patient by
614 | any of the following individuals, in the following order of
615 | priority, if no individual in a prior class is reasonably
616 | available, willing, or competent to act:

617 | (a) The judicially appointed guardian of the patient or
618 | the guardian advocate of the person having a developmental
619 | disability as defined in s. 393.063, who has been authorized to
620 | consent to medical treatment, if such guardian has previously
621 | been appointed; however, this paragraph does ~~shall~~ not be
622 | ~~construed to~~ require such appointment before a treatment
623 | decision can be made under this subsection;

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

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

628 (d) A parent of the patient;

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

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

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

637 (h) A clinical social worker licensed under ~~pursuant to~~
 638 chapter 491, or who is a graduate of a court-approved
 639 guardianship program. ~~Such a proxy must be selected by~~ The
 640 provider's bioethics committee shall select such a proxy, who
 641 may and must not be employed by the provider. If the provider
 642 does not have a bioethics committee, ~~then~~ such a proxy may be
 643 chosen through an arrangement with the bioethics committee of
 644 another provider. The proxy will be notified that, upon request,
 645 the provider shall make available a second physician, not
 646 involved in the patient's care to assist the proxy in evaluating
 647 treatment. Decisions to withhold or withdraw life-prolonging
 648 procedures will be reviewed by the facility's bioethics
 649 committee. Documentation of efforts to locate proxies from prior
 650 classes must be recorded in the patient record.

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

653 765.512 Persons who may make an anatomical gift.—

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

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

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

667 (3) If the decedent has not made an anatomical gift or
 668 designated a health surrogate, a member of one of the classes of
 669 persons listed in this subsection ~~below~~, in the order of
 670 priority listed and in the absence of actual notice of contrary
 671 indications by the decedent or actual notice of opposition by a
 672 member of a prior class, may give all or any part of the
 673 decedent's body for any purpose specified in s. 765.513:

- 674 (a) The spouse or domestic partner of the decedent;
- 675 (b) An adult son or daughter of the decedent;
- 676 (c) Either parent of the decedent;

- 677 (d) An adult brother or sister of the decedent;
- 678 (e) An adult grandchild of the decedent;
- 679 (f) A grandparent of the decedent;
- 680 (g) A close personal friend, as defined in s. 765.101;
- 681 (h) A guardian of the person of the decedent at the time
- 682 of his or her death; or

683 (i) A representative ad litem appointed by a court of
 684 competent jurisdiction upon a petition heard ex parte filed by
 685 any person, who shall ascertain that no person of higher
 686 priority exists who objects to the gift of all or any part of
 687 the decedent's body and that no evidence exists of the
 688 decedent's having made a communication expressing a desire that
 689 his or her body or body parts not be donated upon death.

690
 691 Those of higher priority who are reasonably available must be
 692 contacted and made aware of the proposed gift and a reasonable
 693 search must be conducted which shows that there would have been
 694 no objection to the gift by the decedent.

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

697 765.517 Rights and duties at death.—

698 (1) The donee, pursuant to s. 765.515(2), may accept or
 699 reject an anatomical gift. If the donee accepts a gift to be
 700 used for research or education purposes, the donee may authorize
 701 embalming and the use of the body in funeral services, subject
 702 to the terms of the gift. If the gift is of a part of the body,

703 the donee shall cause the part to be removed without unnecessary
 704 mutilation upon the death of the donor and before or after
 705 embalming. After removal of the body part, custody of the
 706 remainder of the body vests in the surviving spouse, domestic
 707 partner, next of kin, or other persons under obligation to
 708 dispose of the body.

709 Section 27. Subsection (1) of section 768.18, Florida
 710 Statutes, is amended to read:

711 768.18 Definitions.—As used in ss. 768.16–768.26:

712 (1) "Survivors" means the decedent's spouse, domestic
 713 partner, children, parents, and, when partly or wholly dependent
 714 on the decedent for support or services, any blood relatives and
 715 adoptive brothers and sisters. It includes the child born out of
 716 wedlock of a mother, but not the child born out of wedlock of
 717 the father or domestic partner unless the father or domestic
 718 partner has recognized a responsibility for the child's support.

719 Section 28. Subsection (2) of section 872.04, Florida
 720 Statutes, is amended to read:

721 872.04 Autopsies; consent required, exception.—

722 (2) Unless otherwise authorized by statute, an ~~no~~ autopsy
 723 may not ~~shall~~ be performed without the written consent of ~~by~~ the
 724 health care surrogate, as provided in s. 765.202, if one has
 725 been designated. If a health care surrogate has not been
 726 designated, ~~then written consent may be provided by~~ the spouse,
 727 domestic partner, nearest relative, or, if no such next of kin
 728 can be found, the person who has assumed custody of the body for

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729 | purposes of burial may provide written consent. When two or more
730 | persons assume custody of the body for such purposes, then the
731 | consent of any one of them is ~~shall be~~ sufficient to authorize
732 | the autopsy.

733 | Section 29. This act shall take effect July 1, 2016.