

By Senator Rich

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1 A bill to be entitled
2 An act relating to the Florida Companion Registry;
3 providing a short title; creating ch. 754, F.S.; providing
4 definitions; creating the registry within the Department
5 of State; providing for creation and distribution of
6 declaration and termination forms; providing for the
7 content of such forms; providing for rulemaking; providing
8 eligibility requirements for state-registered companions;
9 providing registration procedures; providing for
10 recordkeeping; providing for notice to the Office of Vital
11 Statistics; providing for a fee; providing for automatic
12 termination of a state-registered companion agreement
13 under certain circumstances; providing procedures for
14 voluntary termination of state-registered companion
15 agreements; providing an effective date for voluntarily
16 terminated agreements; providing for recordkeeping;
17 providing for notice to the Office of Vital Statistics;
18 providing for a fee; providing that a registered companion
19 agreement created by a subdivision of the state is not a
20 state-registered companion agreement for the purposes of
21 the Florida Companion Registry; requiring that
22 subdivisions of the state that use the state's definition
23 of a state-registered companion for purposes of companion
24 benefits must allow the state registration certificate to
25 satisfy any registration requirements; requiring such
26 subdivisions to notify the Secretary of State of such
27 acceptance; providing that the section does not affect
28 companion relationship registrations created by any public
29 entity; providing that state-registered companions have

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30 the same visitation rights as spouses in specified health
31 care facilities; providing that nothing in ch. 754, F.S.,
32 affects any common law remedy; providing that state
33 registered companion status is not the substantial
34 equivalent of a marriage; amending s. 48.031, F.S.;
35 revises provisions relating to service of process to
36 include applicability to state-registered companions;
37 amending s. 215.28, F.S.; providing for payment of
38 specified payroll deductions for the purchase of United
39 States securities to a state-registered companion of a
40 deceased state and county officer or employee; amending s.
41 222.15, F.S.; providing for payment of wages or
42 unemployment compensation to a state-registered companion
43 of a deceased employee; amending s. 395.3025, F.S.;
44 revising provisions relating to hospital records to
45 include applicability to state-registered companions;
46 amending s. 400.021, F.S.; including state-registered
47 companions in the term "family" for purposes of provisions
48 relating to nursing homes; amending s. 497.005, F.S.;
49 revising provisions relating to funeral and cemetery
50 services to include state-registered companions among
51 those authorized to make decisions; amending s. 765.401,
52 F.S.; revising provisions relating to health care
53 decisionmaking for incapacitated or developmentally
54 disabled patients to authorize decisionmaking by state-
55 registered companions with the same level of priority as
56 spouses; amending s. 765.512, F.S.; revising provisions
57 relating to anatomical gifts to include state-registered
58 companions among those not authorized to modify or prevent

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59 a donor's wish to make such a gift; amending s. 872.04,
60 F.S.; permitting state-registered companions to consent to
61 autopsies; amending ss. 905.04 and 913.03, F.S.; including
62 state-registered companions within the list of persons
63 whose relationships to specified persons allow challenge
64 to their service as jurors or grand jurors; providing an
65 effective date.

66
67 WHEREAS, the Legislature finds that relationships exist in
68 this state, especially among the state's elderly population, that
69 are committed and exclusive but not legally recognized by law,
70 and

71 WHEREAS, these relationships are not only important to the
72 individuals involved and their families, but they also benefit
73 the public and the greater good by providing a private, rather
74 than governmental, source for the financial, physical, and
75 emotional health of those individuals and their families, and

76 WHEREAS, these relationships, although not existing as legal
77 marriages under state law can, nonetheless, show the same legal
78 domicile and have the same intent for such relationship to last
79 for life, and

80 WHEREAS, the Legislature finds that rights should be granted
81 to persons in such relationships as if legally married and that
82 such rights include, but are not limited to, the right to be
83 involved in financial decisions, the right to pension and benefit
84 collection, the right to hospital visitation, the right to be
85 involved in health care decisions, the right to be involved in
86 organ donor decisions, and the right to be involved in other
87 decisions related to illness, incapacity, and death, and

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88 WHEREAS, the legal framework for such rights to be granted
89 to individuals in such found relationships does not exist;
90 therefore, the Legislature sees fit that the Florida Companion
91 Registry Act should do so, NOW, THEREFORE,

92

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

94

95 Section 1. This act may be cited as the "Florida Companion
96 Registry Act."

97 Section 2. Chapter 754, Florida Statutes, consisting of
98 sections 754.01, 754.02, 754.03, 754.04, 754.05, 754.06, 754.07,
99 754.08, and 754.09, is created to read:

100

CHAPTER 754

101

FLORIDA COMPANION REGISTRY

102 754.01 Definitions.--As used in this chapter, the term:

103 (1) "Department" means the Department of State.

104 (2) "Secretary" means the Secretary of State.

105 (3) "State-registered companions" means two adults who meet
106 the requirements for valid state-registered companion status as
107 established by s. 754.03 and who have been issued a certificate
108 of state-registered companions by the secretary.

109 754.02 Florida Companion Registry; forms; rulemaking.--

110 (1) The Florida Companion Registry is created within the
111 department.

112 (2) The registry shall develop standard forms for the
113 declaration and termination of state-registered companions to
114 meet the requirements of this chapter.

115 (a) The declaration form must:

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116 1. Adequately identify each individual signing the form by
117 name, including former names; residence; and date and place of
118 birth.

119 2. Contain an assertion under oath that each individual
120 meets the requirements of s. 754.03 at the time the declaration
121 is filed.

122 3. Contain a warning that registration may affect property
123 and inheritance rights, that registration is not a substitute for
124 a will, deed, or partnership agreement, and that any rights
125 conferred by registration may be completely superseded by a will,
126 deed, or other instrument that may be executed by either party.
127 The declaration must also contain instructions on how the
128 partnership may be terminated under s. 754.05.

129 (b) The termination form must contain a statement that
130 termination may affect property and inheritance rights, including
131 beneficiary designations, and other agreements such as the
132 appointment of a state-registered companion as an attorney in
133 fact under a power of attorney.

134 (3) The secretary shall distribute these forms to each
135 county clerk. These forms shall be available to the public at the
136 secretary's office, from each county clerk, and on the Internet.

137 (4) The department may adopt rules pursuant to ss.
138 120.536(1) and 120.54 to implement the provisions of this
139 chapter.

140 754.03 Eligibility.--To enter into the Florida Companion
141 Registry, the two persons involved must meet the following
142 requirements:

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143 (1) Both persons must inhabit the same residence in common.
144 Two persons shall be considered to inhabit the same residence in
145 common even if:

146 (a) Only one person has legal ownership of the common
147 residence;

148 (b) One or both persons have additional residences not
149 shared with the other; or

150 (c) One person leaves the common residence with the intent
151 to return.

152 (2) Both persons must be at least 18 years of age.

153 (3) Neither person may be married or registered with the
154 state as a companion to another person.

155 (4) Both persons must be capable of consenting to the
156 agreement.

157 (5) The persons must not be related in a degree of kinship
158 that would prohibit marriage under s. 741.21.

159 754.04 Registration.--

160 (1) Two persons desiring to become state-registered
161 companions who meet the requirements of s. 754.03 may jointly
162 register by filing under oath a declaration of state-registered
163 companions with the secretary and paying the filing fee
164 established under subsection (4). The declaration must be signed
165 by both parties and notarized.

166 (2) Upon receipt of a signed, notarized declaration and the
167 filing fee, the secretary shall register the declaration in the
168 Florida Companion Registry established under s. 754.02 and return
169 two copies of a Certificate of Florida Registered Companions, one
170 for each party named on the declaration, to the address provided
171 as their common residence.

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172 (3) The secretary shall permanently maintain a record of
173 each declaration of state-registered companions filed. The
174 secretary shall provide the Office of Vital Statistics of the
175 Department of Health with records of declarations of state-
176 registered companions.

177 (4) The secretary shall set by rule and collect a
178 reasonable fee for filing the declaration, calculated to cover
179 the department's costs but not to exceed \$100. Fees collected
180 under this section shall be remitted to the Department of Revenue
181 for deposit in the General Revenue Fund.

182 754.05 Termination.--

183 (1) A state-registered companion agreement is automatically
184 terminated if, subsequent to the registration of the state-
185 registered companions with the secretary, either or both of the
186 parties enter into a marriage that is recognized as valid in this
187 state, either with each other or with another person.

188 (2) (a) A party to a state-registered companion agreement
189 may terminate the agreement by filing a notice of termination of
190 the state-registered companion agreement with the secretary and
191 paying the filing fee established under subsection (5). The
192 notice must be signed by at least one of the parties and
193 notarized. If the notice is not signed by both parties, the party
194 seeking termination must also file with the secretary an
195 affidavit stating either that the other party has been served in
196 writing, in the manner prescribed for the service of summons in a
197 civil action, that a notice of termination is being filed, or
198 that the party seeking termination has not been able to find the
199 other party after reasonable effort and that notice has been made
200 by publication under paragraph (b).

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201 (b) When the other party cannot be found after reasonable
202 effort, the party seeking termination may provide notice by
203 publication in a newspaper of general circulation in the county
204 in which the residence most recently shared by the companions is
205 located. Notice must be published at least once.

206 (3) The state-registered companion agreement shall be
207 terminated effective 90 days after the date of filing the notice
208 of termination and payment of the filing fee.

209 (4) Upon receipt of a signed, notarized notice of
210 termination, an affidavit, if required, and the filing fee, the
211 secretary shall register the notice of termination and provide a
212 certificate of termination of the state-registered companion
213 agreement to each party named on the notice. The department shall
214 maintain a record of each notice of termination filed with the
215 secretary and each certificate of termination issued by the
216 secretary. The secretary shall provide the Office of Vital
217 Statistics of the Department of Health with records of
218 terminations of state-registered companions, except for those
219 state-registered companions terminated under subsection (1).

220 (5) The secretary shall set by rule and collect a
221 reasonable fee for filing the termination, calculated to cover
222 the department's costs but not to exceed \$100. Fees collected
223 under this section shall be remitted to the Department of Revenue
224 for deposit in the General Revenue Fund.

225 754.06 Companion agreements registered by subdivisions of
226 the state.--

227 (1) A companion agreement registered by a subdivision of
228 the state is not a state-registered companion agreement for the
229 purposes of the Florida Companion Registry under this chapter.

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230 Those persons desiring to become state-registered companions
231 under this chapter must register under s. 754.04.

232 (2) A subdivision of the state that provides benefits to
233 the companions of its employees and chooses to use the definition
234 of state-registered companions in s. 754.01 must allow the
235 certificate issued by the secretary to satisfy any registration
236 requirements of the subdivision. A subdivision that uses the
237 definition of state-registered companions in s. 754.01 shall
238 notify the secretary. The secretary shall compile and maintain a
239 list of all subdivisions that have filed such notice. The
240 department shall post this list on its website and provide a copy
241 of the list to each person that receives a certificate of state-
242 registered companions under s. 754.04.

243 (3) Nothing in this section shall affect companion
244 relationship registrations created by any public entity.

245 754.07 Visitation in health care facilities.--The state-
246 registered companion of a patient in a health care facility as
247 defined in s. 408.07 shall have the same rights with respect to
248 visitation of the patient as a spouse.

249 754.08 Common law remedies.--Nothing in this chapter
250 affects any remedy available in common law.

251 754.09 Not marriage equivalent.--Nothing in this chapter
252 shall be construed as recognizing state registered companion
253 status as the substantial equivalent of a marriage.

254 Section 3. Paragraph (a) of subsection (2) of section
255 48.031, Florida Statutes, is amended to read:

256 48.031 Service of process generally; service of witness
257 subpoenas.--

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258 (2) (a) Substitute service may be made on the spouse or
259 state-registered companion of the person to be served at any
260 place in the county, if the cause of action is not an adversary
261 proceeding between the spouse or state-registered companion and
262 the person to be served, if the spouse or state-registered
263 companion requests such service, and if the spouse or state-
264 registered companion and person to be served are residing
265 together in the same dwelling.

266 Section 4. Subsection (5) of section 215.28, Florida
267 Statutes, is amended to read:

268 215.28 United States securities, purchase by state and
269 county officers and employees; deductions from salary.--

270 (5) When an officer or employee leaves the service of the
271 state, county, or subordinate governmental agency, the payroll
272 deduction authorization will be canceled automatically and any
273 amount credited to the officer or employee's account shall
274 immediately be refunded and paid to the officer or employee
275 entitled to receive the same. In case of the death of the officer
276 or employee, the payroll deduction authorization will be canceled
277 automatically and any amount to the credit of the officer or
278 employee's account will be paid immediately to the surviving
279 spouse, state-registered companion, children, or parents of the
280 officer or employee, according to and as provided by ss. 222.15
281 and 222.16.

282 Section 5. Subsection (1) of section 222.15, Florida
283 Statutes, is amended to read:

284 222.15 Payment of wages or unemployment compensation
285 payments due deceased employee ~~may be paid spouse or certain~~
286 ~~relatives.--~~

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287 (1) It is lawful for any employer, in case of the death of
288 an employee, to pay to the spouse ~~wife~~ or state-registered
289 companion ~~husband~~, and in case there is no spouse ~~wife~~ or state-
290 registered companion ~~husband~~, then to the child or children,
291 provided the child or children are over the age of 18 years, and
292 in case there is no child or children, then to the father or
293 mother, any wages or travel expenses that may be due such
294 employee at the time of his or her death.

295 Section 6. Subsection (1) of section 395.3025, Florida
296 Statutes, is amended to read:

297 395.3025 Patient and personnel records; copies;
298 examination.--

299 (1) Any licensed facility shall, upon written request, and
300 only after discharge of the patient, furnish, in a timely manner,
301 without delays for legal review, to any person admitted therein
302 for care and treatment or treated thereat, or to any such
303 person's guardian, curator, or personal representative, or in the
304 absence of one of those persons, to the state-registered
305 companion or next of kin of a decedent or the parent of a minor,
306 or to anyone designated by such person in writing, a true and
307 correct copy of all patient records, including X rays, and
308 insurance information concerning such person, which records are
309 in the possession of the licensed facility, provided the person
310 requesting such records agrees to pay a charge. The exclusive
311 charge for copies of patient records may include sales tax and
312 actual postage, and, except for nonpaper records that are subject
313 to a charge not to exceed \$2, may not exceed \$1 per page. A fee
314 of up to \$1 may be charged for each year of records requested.
315 These charges shall apply to all records furnished, whether

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316 directly from the facility or from a copy service providing these
317 services on behalf of the facility. However, a patient whose
318 records are copied or searched for the purpose of continuing to
319 receive medical care is not required to pay a charge for copying
320 or for the search. The licensed facility shall further allow any
321 such person to examine the original records in its possession, or
322 microforms or other suitable reproductions of the records, upon
323 such reasonable terms as shall be imposed to assure that the
324 records will not be damaged, destroyed, or altered.

325 Section 7. Subsections (8) through (18) of section 400.021,
326 Florida Statutes, are renumbered as subsections (9) through (19),
327 respectively, and a new subsection (8) is added to that section
328 to read:

329 400.021 Definitions.--When used in this part, unless the
330 context otherwise requires, the term:

331 (8) "Family" includes a state-registered companion.

332 Section 8. Subsection (37) of section 497.005, Florida
333 Statutes, is amended to read:

334 497.005 Definitions.--As used in this chapter:

335 (37) "Legally authorized person" means, in the priority
336 listed, the decedent, when written inter vivos authorizations and
337 directions are provided by the decedent; the surviving spouse or
338 state-registered companion, unless the spouse or state-registered
339 companion has been arrested for committing against the deceased
340 an act of domestic violence as defined in s. 741.28 that resulted
341 in or contributed to the death of the deceased; a son or daughter
342 who is 18 years of age or older; a parent; a brother or sister
343 who is 18 years of age or older; a grandchild who is 18 years of
344 age or older; a grandparent; or any person in the next degree of

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345 kinship. In addition, the term may include, if no family member
346 exists or is available, the guardian of the dead person at the
347 time of death; the personal representative of the deceased; the
348 attorney in fact of the dead person at the time of death; the
349 health surrogate of the dead person at the time of death; a
350 public health officer; the medical examiner, county commission,
351 or administrator acting under part II of chapter 406 or other
352 public administrator; a representative of a nursing home or other
353 health care institution in charge of final disposition; or a
354 friend or other person not listed in this subsection who is
355 willing to assume the responsibility as the legally authorized
356 person. Where there is a person in any priority class listed in
357 this subsection, the funeral establishment shall rely upon the
358 authorization of any one legally authorized person of that class
359 if that person represents that she or he is not aware of any
360 objection to the cremation of the deceased's human remains by
361 others in the same class of the person making the representation
362 or of any person in a higher priority class.

363 Section 9. Paragraph (b) of subsection (1) of section
364 765.401, Florida Statutes, is amended to read:

365 765.401 The proxy.--

366 (1) If an incapacitated or developmentally disabled patient
367 has not executed an advance directive, or designated a surrogate
368 to execute an advance directive, or the designated or alternate
369 surrogate is no longer available to make health care decisions,
370 health care decisions may be made for the patient by any of the
371 following individuals, in the following order of priority, if no
372 individual in a prior class is reasonably available, willing, or
373 competent to act:

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374 (b) The patient's spouse or state-registered companion;

375 Section 10. Subsection (1) of section 765.512, Florida
376 Statutes, is amended to read:

377 765.512 Persons who may make an anatomical gift.--

378 (1) Any person who may make a will may give all or part of
379 his or her body for any purpose specified in s. 765.510, the gift
380 to take effect upon death. An anatomical gift made by an adult
381 donor and not revoked by the donor as provided in s. 765.516 is
382 irrevocable after the donor's death. A state-registered
383 companion, family member, guardian, representative ad litem, or
384 health care surrogate of an adult donor who has made an
385 anatomical gift pursuant to subsection (2) may not modify, deny,
386 or prevent a donor's wish or intent to make an anatomical gift
387 from being made after the donor's death.

388 Section 11. Subsection (2) of section 872.04, Florida
389 Statutes, is amended to read:

390 872.04 Autopsies; consent required, exception.--

391 (2) Unless otherwise authorized by statute, no autopsy
392 shall be performed without the written consent by the health care
393 surrogate, as provided in s. 765.202, if one has been designated.
394 If a health care surrogate has not been designated, then written
395 consent may be provided by the spouse or state-registered
396 companion, nearest relative, or, if no such next of kin can be
397 found, the person who has assumed custody of the body for
398 purposes of burial. When two or more persons assume custody of
399 the body for such purposes, then the consent of any one of them
400 shall be sufficient to authorize the autopsy.

401 Section 12. Paragraph (c) of subsection (1) of section
402 905.04, Florida Statutes, is amended to read:

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403 905.04 Grounds for challenge to individual prospective
404 grand juror.--

405 (1) The state or a person who has been held to answer may
406 challenge an individual prospective grand juror on the ground
407 that the juror:

408 (c) Is related by blood, ~~or~~ marriage, or state-registered
409 companionship within the third degree to the defendant, to the
410 person alleged to be injured by the offense charged, or to the
411 person on whose complaint the prosecution was instituted.

412 Section 13. Section 913.03, Florida Statutes, is amended to
413 read:

414 913.03 Grounds for challenge to individual jurors for
415 cause.--A challenge for cause to an individual juror may be made
416 only on the following grounds:

417 (1) The juror does not have the qualifications required by
418 law;

419 (2) The juror is of unsound mind or has a bodily defect
420 that renders him or her incapable of performing the duties of a
421 juror, except that, in a civil action, deafness or hearing
422 impairment shall not be the sole basis of a challenge for cause
423 of an individual juror;

424 (3) The juror has conscientious beliefs that would preclude
425 him or her from finding the defendant guilty;

426 (4) The juror served on the grand jury that found the
427 indictment or on a coroner's jury that inquired into the death of
428 a person whose death is the subject of the indictment or
429 information;

430 (5) The juror served on a jury formerly sworn to try the
431 defendant for the same offense;

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432 (6) The juror served on a jury that tried another person
433 for the offense charged in the indictment, information, or
434 affidavit;

435 (7) The juror served as a juror in a civil action brought
436 against the defendant for the act charged as an offense;

437 (8) The juror is an adverse party to the defendant in a
438 civil action, or has complained against or been accused by the
439 defendant in a criminal prosecution;

440 (9) The juror is related by blood, ~~or~~ marriage, or state-
441 registered companionship within the third degree to the
442 defendant, the attorneys of either party, the person alleged to
443 be injured by the offense charged, or the person on whose
444 complaint the prosecution was instituted;

445 (10) The juror has a state of mind regarding the defendant,
446 the case, the person alleged to have been injured by the offense
447 charged, or the person on whose complaint the prosecution was
448 instituted that will prevent the juror from acting with
449 impartiality, but the formation of an opinion or impression
450 regarding the guilt or innocence of the defendant shall not be a
451 sufficient ground for challenge to a juror if he or she declares
452 and the court determines that he or she can render an impartial
453 verdict according to the evidence;

454 (11) The juror was a witness for the state or the defendant
455 at the preliminary hearing or before the grand jury or is to be a
456 witness for either party at the trial;

457 (12) The juror is a surety on defendant's bail bond in the
458 case.

459 Section 14. This act shall take effect July 1, 2008.