

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
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
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,
69 that are committed and exclusive but not legally recognized by
70 law, 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
77 legal marriages under state law can, nonetheless, show the same
78 legal domicile and have the same intent for such relationship to
79 last for life, and

80 WHEREAS, the Legislature finds that rights should be
81 granted to persons in such relationships as if legally married
82 and that such rights include, but are not limited to, the right
83 to be involved in financial decisions, the right to pension and
84 benefit collection, the right to hospital visitation, the right

85 | to be involved in health care decisions, the right to be
 86 | involved in organ donor decisions, and the right to be involved
 87 | in other decisions related to illness, incapacity, and death,
 88 | and

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

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

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

98 | Section 2. Chapter 754, Florida Statutes, consisting of
 99 | sections 754.01, 754.02, 754.03, 754.04, 754.05, 754.06, 754.07,
 100 | 754.08, and 754.09, is created to read:

101 | CHAPTER 754

102 | FLORIDA COMPANION REGISTRY

103 | 754.01 Definitions.--As used in this chapter, the term:

104 | (1) "Department" means the Department of State.

105 | (2) "Secretary" means the Secretary of State.

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

110 | 754.02 Florida Companion Registry; forms; rulemaking.--

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

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

116 (a) The declaration form must:

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

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

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

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

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

139 (4) The department may adopt rules pursuant to ss.
140 120.536(1) and 120.54 to implement the provisions of this
141 chapter.

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

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

148 (a) Only one person has legal ownership of the common
149 residence;

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

152 (c) One person leaves the common residence with the intent
153 to return.

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

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

157 (4) Both persons must be capable of consenting to the
158 agreement.

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

161 754.04 Registration.--

162 (1) Two persons desiring to become state-registered
163 companions who meet the requirements of s. 754.03 may jointly
164 register by filing under oath a declaration of state-registered
165 companions with the secretary and paying the filing fee

166 established under subsection (4). The declaration must be signed
167 by both parties and notarized.

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

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

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

184 754.05 Termination.--

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

191 (2) (a) A party to a state-registered companion agreement
192 may terminate the agreement by filing a notice of termination of
193 the state-registered companion agreement with the secretary and

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

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

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

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

221 terminations of state-registered companions, except for those
 222 state-registered companions terminated under subsection (1).

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

228 754.06 Companion agreements registered by subdivisions of
 229 the state.--

230 (1) A companion agreement registered by a subdivision of
 231 the state is not a state-registered companion agreement for the
 232 purposes of the Florida Companion Registry under this chapter.
 233 Those persons desiring to become state-registered companions
 234 under this chapter must register under s. 754.04.

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

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

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

252 754.08 Common law remedies.--Nothing in this chapter
 253 affects any remedy available in common law.

254 754.09 Not marriage equivalent.--Nothing in this chapter
 255 shall be construed as recognizing state registered companion
 256 status as the substantial equivalent of a marriage.

257 Section 3. Paragraph (a) of subsection (2) of section
 258 48.031, Florida Statutes, is amended to read:

259 48.031 Service of process generally; service of witness
 260 subpoenas.--

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

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

271 215.28 United States securities, purchase by state and
 272 county officers and employees; deductions from salary.--

273 (5) When an officer or employee leaves the service of the
 274 state, county, or subordinate governmental agency, the payroll
 275 deduction authorization will be canceled automatically and any

276 amount credited to the officer or employee's account shall
 277 immediately be refunded and paid to the officer or employee
 278 entitled to receive the same. In case of the death of the
 279 officer or employee, the payroll deduction authorization will be
 280 canceled automatically and any amount to the credit of the
 281 officer or employee's account will be paid immediately to the
 282 surviving spouse, state-registered companion, children, or
 283 parents of the officer or employee, according to and as provided
 284 by ss. 222.15 and 222.16.

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

287 222.15 Payment of wages or unemployment compensation
 288 payments due deceased employee ~~may be paid spouse or certain~~
 289 ~~relatives.--~~

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

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

300 395.3025 Patient and personnel records; copies;
 301 examination.--

302 (1) Any licensed facility shall, upon written request, and
 303 only after discharge of the patient, furnish, in a timely

304 manner, without delays for legal review, to any person admitted
305 therein for care and treatment or treated thereat, or to any
306 such person's guardian, curator, or personal representative, or
307 in the absence of one of those persons, to the state-registered
308 companion or next of kin of a decedent or the parent of a minor,
309 or to anyone designated by such person in writing, a true and
310 correct copy of all patient records, including X rays, and
311 insurance information concerning such person, which records are
312 in the possession of the licensed facility, provided the person
313 requesting such records agrees to pay a charge. The exclusive
314 charge for copies of patient records may include sales tax and
315 actual postage, and, except for nonpaper records that are
316 subject to a charge not to exceed \$2, may not exceed \$1 per
317 page. A fee of up to \$1 may be charged for each year of records
318 requested. These charges shall apply to all records furnished,
319 whether directly from the facility or from a copy service
320 providing these services on behalf of the facility. However, a
321 patient whose records are copied or searched for the purpose of
322 continuing to receive medical care is not required to pay a
323 charge for copying or for the search. The licensed facility
324 shall further allow any such person to examine the original
325 records in its possession, or microforms or other suitable
326 reproductions of the records, upon such reasonable terms as
327 shall be imposed to assure that the records will not be damaged,
328 destroyed, or altered.

329 Section 7. Subsections (8) through (18) of section
330 400.021, Florida Statutes, are renumbered as subsections (9)

331 through (19), respectively, and a new subsection (8) is added to
 332 that section to read:

333 400.021 Definitions.--When used in this part, unless the
 334 context otherwise requires, the term:

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

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

338 497.005 Definitions.--As used in this chapter:

339 (37) "Legally authorized person" means, in the priority
 340 listed, the decedent, when written inter vivos authorizations
 341 and directions are provided by the decedent; the surviving
 342 spouse or state-registered companion, unless the spouse or
 343 state-registered companion has been arrested for committing
 344 against the deceased an act of domestic violence as defined in
 345 s. 741.28 that resulted in or contributed to the death of the
 346 deceased; a son or daughter who is 18 years of age or older; a
 347 parent; a brother or sister who is 18 years of age or older; a
 348 grandchild who is 18 years of age or older; a grandparent; or
 349 any person in the next degree of kinship. In addition, the term
 350 may include, if no family member exists or is available, the
 351 guardian of the dead person at the time of death; the personal
 352 representative of the deceased; the attorney in fact of the dead
 353 person at the time of death; the health surrogate of the dead
 354 person at the time of death; a public health officer; the
 355 medical examiner, county commission, or administrator acting
 356 under part II of chapter 406 or other public administrator; a
 357 representative of a nursing home or other health care
 358 institution in charge of final disposition; or a friend or other

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359 person not listed in this subsection who is willing to assume
 360 the responsibility as the legally authorized person. Where there
 361 is a person in any priority class listed in this subsection, the
 362 funeral establishment shall rely upon the authorization of any
 363 one legally authorized person of that class if that person
 364 represents that she or he is not aware of any objection to the
 365 cremation of the deceased's human remains by others in the same
 366 class of the person making the representation or of any person
 367 in a higher priority class.

368 Section 9. Paragraph (b) of subsection (1) of section
 369 765.401, Florida Statutes, is amended to read:

370 765.401 The proxy.--

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

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

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

382 765.512 Persons who may make an anatomical gift.--

383 (1) Any person who may make a will may give all or part of
 384 his or her body for any purpose specified in s. 765.510, the
 385 gift to take effect upon death. An anatomical gift made by an
 386 adult donor and not revoked by the donor as provided in s.

387 765.516 is irrevocable after the donor's death. A state-
 388 registered companion, family member, guardian, representative ad
 389 litem, or health care surrogate of an adult donor who has made
 390 an anatomical gift pursuant to subsection (2) may not modify,
 391 deny, or prevent a donor's wish or intent to make an anatomical
 392 gift from being made after the donor's death.

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

395 872.04 Autopsies; consent required, exception.--

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

406 Section 12. Paragraph (c) of subsection (1) of section
 407 905.04, Florida Statutes, is amended to read:

408 905.04 Grounds for challenge to individual prospective
 409 grand juror.--

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

413 (c) Is related by blood, or marriage, or state-registered
 414 companionship within the third degree to the defendant, to the

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415 | person alleged to be injured by the offense charged, or to the
416 | person on whose complaint the prosecution was instituted.

417 | Section 13. Subsection (9) of section 914.03, Florida
418 | Statutes, is amended to read:

419 | 913.03 Grounds for challenge to individual jurors for
420 | cause.--A challenge for cause to an individual juror may be made
421 | only on the following grounds:

422 | (9) The juror is related by blood, ~~or~~ marriage, or state-
423 | registered companionship within the third degree to the
424 | defendant, the attorneys of either party, the person alleged to
425 | be injured by the offense charged, or the person on whose
426 | complaint the prosecution was instituted;

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