

By Senator Sobel

31-01660-09

20091642__

1 A bill to be entitled
2 An act relating to domestic partnerships; creating s.
3 741.501, F.S.; providing legislative findings and
4 stating the policy of this state; creating s. 741.502,
5 F.S.; defining the terms "domestic partnership" and
6 "partner"; creating s. 741.503, F.S.; requiring the
7 Department of Health to create and distribute the
8 Declaration of Domestic Partnership and Certificate of
9 Registered Domestic Partnership forms to each clerk of
10 the circuit court; requiring the department and each
11 clerk of the circuit court to make the Declaration of
12 Domestic Partnership forms available to the public;
13 creating s. 741.504, F.S.; describing the required
14 contents of the Declaration of Domestic Partnership;
15 providing that if a person files an intentionally and
16 materially false Declaration of Domestic Partnership
17 form he or she commits a misdemeanor of the first
18 degree; providing criminal penalties; creating s.
19 741.505, F.S.; requiring two individuals who wish to
20 become partners in a domestic partnership to complete
21 and file a Declaration of Domestic Partnership form
22 with the clerk of the circuit court; providing for the
23 clerk of the circuit court to register the Declaration
24 of Domestic Partnership in a domestic partnership
25 registry and return a copy of the registered form and
26 a Certificate of Registered Domestic Partnership to
27 the partners; providing that each partner who signs a
28 Declaration of Domestic Partnership consents to the
29 jurisdiction of the circuit court of this state for

31-01660-09

20091642__

30 certain specified purposes; providing that the
31 registry of domestic partnerships maintained by the
32 clerk is a public record; creating s. 741.506, F.S.;
33 prohibiting certain specified domestic partnerships;
34 creating s. 741.507, F.S.; providing that the circuit
35 court has jurisdiction over any proceeding relating to
36 the domestic partners' rights and obligations,
37 including a petition for dissolution or annulment of
38 the domestic partnership; creating s. 741.508, F.S.;
39 authorizing the domestic partners to retain surnames;
40 creating s. 741.509, F.S.; providing that any
41 privilege, immunity, right, or benefit granted by
42 statute, administrative regulation, or court order,
43 policy, common law, or any other law to an individual
44 because the individual is or was an in-law in a
45 specified way to another individual, is granted on
46 equivalent terms, substantive and procedural, to an
47 individual because the individual is or was in a
48 domestic partnership or because the individual is or
49 was, based on a domestic partnership, related in a
50 specified way to another individual; providing that
51 the act does not require or permit the extension of
52 any benefit under a retirement, deferred compensation,
53 or other employee benefit plan, if the plan
54 administrator reasonably concludes that the extension
55 of benefits to domestic partners would conflict with a
56 condition for tax qualification of the plan, or a
57 condition for other favorable tax treatment of the
58 plan, under the Internal Revenue Code or regulations

31-01660-09

20091642__

59 adopted under the Internal Revenue Code; amending ss.
60 28.101 and 28.24, F.S.; setting forth fees and costs
61 to be applied when petitioning for a dissolution of a
62 domestic partnership or registering a Declaration of
63 Domestic Partnership, respectively; amending s.
64 97.1031, F.S.; providing notice to the supervisor of
65 elections concerning a change of name due to
66 registering a Declaration of Domestic Partnership;
67 creating s. 220.121, F.S.; providing applicability of
68 domestic partnerships to the tax laws of this state;
69 amending s. 382.002, F.S.; defining the term
70 "dissolution of a domestic partnership" for purposes
71 of vital records; including a declaration of domestic
72 partnership and a dissolution of a domestic
73 partnership as vital records in this state; amending
74 s. 382.003, F.S.; requiring the Department of Health
75 to monitor declarations of domestic partnership forms
76 and dissolution of domestic partnership reports sent
77 from the circuit courts; amending s. 382.0085, F.S.;
78 conforming a cross-reference; amending s. 382.021,
79 F.S.; requiring the clerk of the circuit court to
80 transmit all original Declarations of Domestic
81 Partnership forms to the Department of Health by a
82 specified date each month; amending ss. 382.022 and
83 382.023, F.S.; requiring the clerk of the circuit
84 court to collect a fee after receiving each
85 Declaration of Domestic Partnership form and requiring
86 the clerk of the circuit court to collect a fee upon
87 filing a final judgment in each dissolution of

31-01660-09

20091642__

88 domestic partnership proceeding, respectively;
89 amending s. 382.025, F.S.; authorizing the Department
90 of Health to issue a certified copy of certain records
91 to a domestic partner; amending s. 382.0255, F.S.;

92 providing that the Department of Health is entitled to
93 a specified fee for the issuance of a commemorative
94 certificate of domestic partnership; amending s.
95 446.50, F.S.; requiring that funds generated from
96 additional fees collected from Declarations of
97 Domestic Partnership and dissolution of domestic
98 partnership filings be deposited in the Displaced
99 Homemaker Trust Fund; amending s. 741.01, F.S.;

100 requiring the clerk of the circuit court to collect
101 enumerated fees for registering a Declaration of
102 Domestic Partnership; amending s. 741.011, F.S.;

103 authorizing the clerk of the circuit court to accept
104 installment payments from individuals who are unable
105 to pay the fees to register a Declaration of Domestic
106 Partnership in a lump sum; amending s. 741.02, F.S.;

107 requiring the clerk of the circuit court to collect an
108 additional fee upon registering a Declaration of
109 Domestic Partnership; amending s. 741.09, F.S.;

110 requiring the clerk of the circuit court to keep
111 complete and accurate records of all declarations of
112 domestic partnerships registered in that circuit;

113 amending s. 741.10, F.S.; providing for methods to
114 prove the existence of a registered Declaration
115 Domestic Partnership when the certificate document has
116 been lost or is otherwise unavailable; amending s.

31-01660-09

20091642__

117 741.28, F.S.; redefining the term "family or household
118 member" in the context of domestic violence to include
119 a domestic partnership; reenacting ss. 921.0024(1)(b)
120 and 943.171(2)(b), F.S., relating to the worksheet
121 form for the Criminal Punishment Code and the basic
122 skills training for domestic violence cases,
123 respectively, to incorporate the amendments made to s.
124 741.28, F.S., in a reference thereto; providing an
125 effective date.

126

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

128

129 Section 1. Section 741.501, Florida Statutes, is created to
130 read:

131 741.501 Legislative findings; purpose.—The Legislature
132 finds that:

133 (1) There are a significant number of individuals in this
134 state who choose to live together in an important, personal,
135 emotional, and economically committed relationship. These
136 individuals live together, serve and participate together in the
137 community, and often rear children and care for family members
138 together.

139 (2) These familial relationships, which are known as
140 domestic partnerships, assist the state by establishing a
141 private network of support for the financial, physical, and
142 emotional health of their participants.

143 (3) While some public and private institutions choose to
144 recognize these familial relationships for limited purposes such
145 as health benefits, hospital visitation, and medical

31-01660-09

20091642

146 decisionmaking for an incapacitated family member, many do not.
147 Additionally, legal recognition of marriage by the state is the
148 primary and, in a number of instances, the exclusive source of
149 numerous rights, benefits, and responsibilities available to
150 families under the law of this state.

151 (4) Because of the material and other support that these
152 familial relationships provide to their participants, the
153 Legislature believes that they should be formally recognized and
154 made uniform by law.

155 (5) The Legislature recognizes that marriage is limited to
156 the union of one man and one woman by Art. I of the State
157 Constitution, and the Legislature does not seek to, and
158 recognizes that it cannot, alter the definition of marriage in
159 any way. The Legislature also recognizes that, while far short
160 of the full legal and social rights, responsibilities, and
161 recognition afforded by marriage, domestic partnerships extend
162 important rights, responsibilities, and recognition to
163 individuals who choose to form long-term, mutually supportive
164 relationships. Recognition of domestic partnerships by the state
165 will provide support to these familial relationships without
166 affecting the definition of marriage, without creating or
167 recognizing a legal relationship that is the substantial
168 equivalent of marriage, and without affecting restrictions
169 contained in federal law.

170 (6) This state has a strong interest in promoting stable
171 and lasting families, and all families should be provided with
172 the opportunity to obtain necessary legal protections and status
173 and the ability to achieve their fullest potential.

174 (7) The Legislature leaves it to the dictates and

31-01660-09

20091642__

175 conscience of partners entering into a domestic partnership to
176 determine whether to seek a ceremony or blessing over the
177 domestic partnership and to the dictates of each religious faith
178 to determine whether to offer or permit a ceremony or blessing
179 of domestic partnerships. Sections 741.501-741.509 do not
180 require performance of any solemnization ceremony to enter into
181 a binding domestic partnership agreement, and providing familial
182 recognition through a domestic partnership system in no way
183 interferes with the right of each religious faith to choose
184 freely to whom to grant the religious status, sacrament, or
185 blessing of marriage under the rules and practices of that
186 faith.

187 (8) Therefore, the Legislature declares that it is the
188 policy of this state to establish and define the rights and
189 responsibilities of domestic partners.

190 Section 2. Section 741.502, Florida Statutes, is created to
191 read:

192 741.502 Domestic partnerships; definitions.—As used in this
193 ss. 741.501-741-509, the term:

194 (1) "Department" means the Department of Health.

195 (2) "Domestic partnership" means a civil contract entered
196 into between two individuals who are 18 years of age or older
197 and who are otherwise capable, at least one of whom is a
198 resident of this state.

199 (3) "Partner" means an individual joined in a domestic
200 partnership.

201 Section 3. Section 741.503, Florida Statutes, is created to
202 read:

203 741.503 Declaration of domestic partnership; certificate of

31-01660-09

20091642__

204 registered domestic partnership.-

205 (1) The department shall prepare forms entitled:

206 (a) "Declaration of Domestic Partnership" meeting the
207 requirements of s. 741.504; and

208 (b) "Certificate of Registered Domestic Partnership."

209 (2) The department shall distribute the Declaration of
210 Domestic Partnership and Certificate of Registered Domestic
211 Partnership forms to each clerk of the circuit court. The
212 department and each clerk shall make the Declaration of Domestic
213 Partnership forms available to the public.

214 Section 4. Section 741.504, Florida Statutes, is created to
215 read:

216 741.504 Domestic partnership; requirements.-

217 (1) Each individual who desires to become a partner in a
218 domestic partnership must execute and file a Declaration of
219 Domestic Partnership. The declaration must include:

220 (a) A statement that the individual is 18 years of age or
221 older and is otherwise capable to enter into a domestic
222 partnership.

223 (b) A statement that the individual is a resident of this
224 state.

225 (c) The individual's mailing address.

226 (d) A statement that the individual consents to the
227 jurisdiction of the circuit courts of this state for the purpose
228 of an action to obtain a judgment of dissolution or annulment of
229 the domestic partnership or for legal separation of the partners
230 in the domestic partnership, or for any other proceeding related
231 to the partners' rights and obligations, even if one or both
232 partners cease to reside in, or to maintain a domicile in, this

31-01660-09

20091642__

233 state.

234 (e) A signature by the individual, acknowledged by a notary
235 public, along with a declaration that representations made on
236 the form are true, correct, and contain no material omissions of
237 fact to the best knowledge and belief of the individual.

238 (f) Both partners' signatures affixed to one Declaration of
239 Domestic Partnership form.

240 (2) A person who files an intentionally and materially
241 false Declaration of Domestic Partnership form with the clerk of
242 court commits a misdemeanor of the first degree, punishable as
243 provided in s. 775.082 or s. 775.083.

244 Section 5. Section 741.505, Florida Statutes, is created to
245 read:

246 741.505 Domestic partnership; creation and registration.-

247 (1) Two individuals wishing to become partners in a
248 domestic partnership may complete and file a Declaration of
249 Domestic Partnership with the clerk of the circuit court.

250 (2) In accordance with the requirements of s. 741.504, the
251 clerk of the circuit court may accept any reasonable proof of an
252 individual's age which is satisfactory to the clerk. The clerk
253 may require proof of age by affidavit of some individual other
254 than either of the parties seeking to file the Declaration of
255 Domestic Partnership if the clerk finds it necessary in order to
256 determine the age of the individual to the clerk's satisfaction.

257 (3) If all legal requirements of ss. 741.502-741.509 have
258 been satisfied, the clerk of the circuit court shall register
259 the Declaration of Domestic Partnership in a domestic
260 partnership registry and return a copy of the registered form
261 and a Certificate of Registered Domestic Partnership to the

31-01660-09

20091642__

262 partners in person or at the mailing address provided by the
263 partners.

264 (4) Notwithstanding s. 61.021, each person signing a
265 Declaration of Domestic Partnership consents to the jurisdiction
266 of the circuit courts of this state for the purpose of an action
267 to obtain a judgment of dissolution or annulment of the domestic
268 partnership, for legal separation of the partners in the
269 domestic partnership, or for any other proceeding related to the
270 partners' rights and obligations, even if one or both partners
271 cease to reside in, or to maintain a domicile in, this state.

272 (5) An individual who has filed a Declaration of Domestic
273 Partnership may not file a new Declaration of Domestic
274 Partnership or enter a marriage recognized in this state with
275 someone other than the individual's registered partner unless a
276 judgment of dissolution or annulment of the most recent domestic
277 partnership has been entered. This prohibition does not apply if
278 the previous domestic partnership ended because one of the
279 partners died.

280 (6) Notwithstanding s. 382.025 or any other law, the
281 registry of domestic partnerships maintained by a clerk of the
282 circuit court is a public record and subject to full disclosure.

283 Section 6. Section 741.506, Florida Statutes, is created to
284 read:

285 741.506 Domestic partnerships prohibited and void.—

286 (1) The following domestic partnerships are prohibited and
287 void:

288 (a) If either party to the domestic partnership has a
289 different partner, or a wife or husband recognized by the State
290 of Florida, living at the time of the domestic partnership.

31-01660-09

20091642

291 (b) If the parties to the domestic partnership are related
292 by lineal consanguinity or are siblings, or if one party is the
293 niece or nephew of the other party.

294 (2) If either party to a domestic partnership is incapable
295 of making the civil contract or consenting to the contract for
296 want of legal age or sufficient understanding. If the consent of
297 either party is obtained by force or fraud, the domestic
298 partnership is void from the time it is so declared by a
299 judgment of a court having jurisdiction of the domestic
300 partnership.

301 Section 7. Section 741.507, Florida Statutes, is created to
302 read:

303 741.507 Domestic partnership; enforcement; dissolution and
304 annulment.—The circuit court has jurisdiction over any
305 proceeding relating to the domestic partners' rights and
306 obligations, including a petition for dissolution or annulment
307 of the domestic partnership.

308 Section 8. Section 741.508, Florida Statutes, is created to
309 read:

310 741.508 Domestic partnership; name change.—Upon entering
311 into a domestic partnership, an individual may retain the
312 individual's previous surname and either individual may resume
313 the individual's previous legal name during the domestic
314 partnership.

315 Section 9. Section 741.509, Florida Statutes, is created to
316 read:

317 741.509 Domestic partnership; rights and responsibilities;
318 no conflict with federal law.—

319 (1) Any privilege, immunity, right, or benefit granted by

31-01660-09

20091642

320 statute, administrative or court rule, policy, common law, or
321 any other law to an individual because the individual is or was
322 an in-law in a specified way to another individual, is granted
323 on equivalent terms, substantive and procedural, to an
324 individual because the individual is or was in a domestic
325 partnership or because the individual is or was, based on a
326 domestic partnership, related in a specified way to another
327 individual.

328 (2) Any responsibility imposed by statute, administrative
329 or court rule, policy, common law, or any other law on an
330 individual because the individual is or was married, or because
331 the individual is or was an in-law in a specified way to another
332 individual, is imposed on equivalent terms, substantive and
333 procedural, on an individual because the individual is or was,
334 based on a domestic partnership, related in a specified way to
335 another individual.

336 (3) Any privilege, immunity, right, benefit, or
337 responsibility granted or imposed by statute, administrative or
338 court rule, policy, common law, or any other law to or on a
339 spouse with respect to a child of either of the spouses is
340 granted or imposed on equivalent terms, substantive and
341 procedural, to or on a partner with respect to a child of either
342 of the partners.

343 (4) Any privilege, immunity, right, benefit, or
344 responsibility granted or imposed by statute, administrative or
345 court rule, policy, common law, or any other law to or on a
346 former or surviving spouse with respect to a child of either of
347 the spouses is granted or imposed on equivalent terms,
348 substantive and procedural, to or on a former or surviving

31-01660-09

20091642__

349 partner with respect to a child of either of the partners.

350 (5) Many of the laws of this state are intertwined with
351 federal law, and the Legislature recognizes that it does not
352 have the jurisdiction to control federal laws or the privileges,
353 immunities, rights, benefits, and responsibilities related to
354 federal laws.

355 (6) Sections 741.502-741.509 do not require or permit the
356 extension of any benefit under any retirement, deferred
357 compensation, or other employee benefit plan, if the plan
358 administrator reasonably concludes that the extension of
359 benefits would conflict with a condition for tax qualification
360 of the plan, or a condition for other favorable tax treatment of
361 the plan, under the Internal Revenue Code or regulations adopted
362 under the Internal Revenue Code.

363 (7) Sections 741.502-741.509 do not require the extension
364 of any benefit under any employee benefit plan that is subject
365 to federal regulation under the Employee Retirement Income
366 Security Act of 1974.

367 (8) For purposes of administering the tax laws of this
368 state, partners in a domestic partnership, surviving partners in
369 a domestic partnership, and the children of partners in a
370 domestic partnership have the same privileges, immunities,
371 rights, benefits, and responsibilities as are granted to or
372 imposed on spouses in a marriage, surviving spouses, and their
373 children.

374 Section 10. Section 28.101, Florida Statutes, is amended to
375 read:

376 28.101 Petitions and records of dissolution of marriage and
377 domestic partnership; additional charges.-

31-01660-09

20091642__

378 (1) When a party petitions for a dissolution of marriage or
379 domestic partnership, in addition to the filing charges in s.
380 28.241, the clerk shall collect and receive:

381 (a) A charge of \$5. On a monthly basis, the clerk shall
382 transfer the moneys collected pursuant to this paragraph to the
383 Department of Revenue for deposit in the Child Welfare Training
384 Trust Fund created in s. 402.40.

385 (b) A charge of \$5. On a monthly basis, the clerk shall
386 transfer the moneys collected pursuant to this paragraph to the
387 Department of Revenue for deposit in the Displaced Homemaker
388 Trust Fund created in s. 446.50. If a petitioner does not have
389 sufficient funds with which to pay this fee and signs an
390 affidavit so stating, all or a portion of the fee shall be
391 waived subject to a subsequent order of the court relative to
392 the payment of the fee.

393 (c) A charge of \$55. On a monthly basis, the clerk shall
394 transfer the moneys collected pursuant to this paragraph to the
395 Department of Revenue for deposit in the Domestic Violence Trust
396 Fund. Such funds which are generated shall be directed to the
397 Department of Children and Family Services for the specific
398 purpose of funding domestic violence centers.

399 (d) A charge of \$32.50. On a monthly basis, the clerk shall
400 transfer the moneys collected pursuant to this paragraph as
401 follows:

402 1. An amount of \$7.50 to the Department of Revenue for
403 deposit in the Displaced Homemaker Trust Fund.

404 2. An amount of \$25 to the Department of Revenue for
405 deposit in the General Revenue Fund.

406 (2) Upon receipt of a final judgment of dissolution of

31-01660-09

20091642__

407 marriage or dissolution of domestic partnership for filing, and
408 in addition to the filing charges in s. 28.241, the clerk may
409 collect and receive a service charge of up to \$10.50 pursuant to
410 s. 382.023 for the recording and reporting of such final
411 judgment of dissolution of marriage or dissolution of domestic
412 partnership to the Department of Health.

413 Section 11. Subsection (23) of section 28.24, Florida
414 Statutes, is amended to read:

415 28.24 Service charges by clerk of the circuit court.—The
416 clerk of the circuit court shall charge for services rendered by
417 the clerk's office in recording documents and instruments and in
418 performing the duties enumerated in amounts not to exceed those
419 specified in this section. Notwithstanding any other provision
420 of this section, the clerk of the circuit court shall provide
421 without charge to the state attorney, public defender, guardian
422 ad litem, public guardian, attorney ad litem, criminal conflict
423 and civil regional counsel, and private court-appointed counsel
424 paid by the state, and to the authorized staff acting on behalf
425 of each, access to and a copy of any public record, if the
426 requesting party is entitled by law to view the exempt or
427 confidential record, as maintained by and in the custody of the
428 clerk of the circuit court as provided in general law and the
429 Florida Rules of Judicial Administration. The clerk of the
430 circuit court may provide the requested public record in an
431 electronic format in lieu of a paper format when capable of
432 being accessed by the requesting entity.

433

434 Charges

435 (23) Upon receipt of an application for a marriage license

31-01660-09

20091642__

436 or an application to register a Declaration of Domestic
 437 Partnership, for preparing and administering of oath; issuing,
 438 sealing, and recording of the marriage license or for
 439 registering the Declaration of Domestic Partnership; and
 440 providing a certified copy..... 30.00

441 Section 12. Subsection (2) of section 97.1031, Florida
 442 Statutes, is amended to read:

443 97.1031 Notice of change of residence, change of name, or
 444 change of party affiliation.—

445 (2) When an elector moves from the address named on that
 446 person's voter registration record to another address in a
 447 different county but within the state, the elector seeks to
 448 change party affiliation, or the name of an elector is changed
 449 by marriage, registered Declaration of Domestic Partnership, or
 450 other legal process, the elector shall provide notice of such
 451 change to a voter registration official using a voter
 452 registration application signed by the elector. A voter
 453 information card reflecting the new information shall be issued
 454 to the elector as provided in subsection (3).

455 Section 13. Section 220.121, Florida Statutes, is created
 456 to read:

457 220.121 Application to domestic partnerships.—This chapter
 458 applies to partners in a domestic partnership, as defined in s.
 459 741.502, and surviving partners as if federal income tax law
 460 recognized a domestic partnership in the same manner as Florida
 461 law.

462 Section 14. Present subsections (6) through (16) of section
 463 382.002, Florida Statutes, are renumbered as subsections (7)
 464 through (17), respectively, a new subsection (6) is added to

31-01660-09

20091642__

465 that section, and present subsection (15) of that section is
466 amended, to read:

467 382.002 Definitions.—As used in this chapter, the term:

468 (6) "Dissolution of domestic partnership" includes an
469 annulment of domestic partnership.

470 (16)~~(15)~~ "Vital records" or "records" means certificates or
471 reports of birth, death, fetal death, marriage, dissolution of
472 marriage, declaration of domestic partnership, dissolution of
473 domestic partnership, name change filed pursuant to s. 68.07,
474 and data related thereto.

475 Section 15. Subsection (7) of section 382.003, Florida
476 Statutes, is amended to read:

477 382.003 Powers and duties of the department.—The department
478 may:

479 (7) Approve all forms used in registering, recording,
480 certifying, and preserving vital records, or in otherwise
481 carrying out the purposes of this chapter, and no other forms
482 shall be used other than those approved by the department. The
483 department is responsible for the careful examination of the
484 certificates received monthly from the local registrars and
485 marriage certificates, ~~and~~ dissolution of marriage reports,
486 declarations of domestic partnership reports, and dissolution of
487 domestic partnership reports received from the circuit and
488 county courts. A certificate that is complete and satisfactory
489 shall be accepted and given a state file number and considered a
490 state-filed record. If any such certificates are incomplete or
491 unsatisfactory, the department shall require further information
492 to be supplied as may be necessary to make the record complete
493 and satisfactory. All physicians, midwives, informants, or

31-01660-09

20091642__

494 funeral directors, and all other persons having knowledge of the
495 facts, are required to supply, upon a form approved by the
496 department or upon the original certificate, such information as
497 they may possess regarding any vital record.

498 Section 16. Subsection (9) of section 382.0085, Florida
499 Statutes, is amended to read:

500 382.0085 Stillbirth registration.-

501 (9) This section or s. 382.002(15) ~~s. 382.002(14)~~ may not
502 be used to establish, bring, or support a civil cause of action
503 seeking damages against any person or entity for bodily injury,
504 personal injury, or wrongful death for a stillbirth.

505 Section 17. Section 382.021, Florida Statutes, is amended
506 to read:

507 382.021 Department to receive marriage licenses and
508 registered Declarations of Domestic Partnership.-On or before
509 the 5th day of each month, the county court judge or clerk of
510 the circuit court shall transmit all original marriage licenses,
511 with endorsements, and all Declarations of Domestic Partnership
512 received during the preceding calendar month, to the department.
513 Any marriage licenses issued and not returned or any marriage
514 licenses returned but not recorded shall be reported by the
515 issuing county court judge or clerk of the circuit court to the
516 department at the time of transmitting the recorded licenses on
517 the forms to be prescribed and furnished by the department. If
518 during any month no marriage licenses are issued or returned, or
519 no Declarations of Domestic Partnership are registered, the
520 county court judge or clerk of the circuit court shall report
521 such fact to the department upon forms prescribed and furnished
522 by the department.

31-01660-09

20091642

523 Section 18. Section 382.022, Florida Statutes, is amended
524 to read:

525 382.022 Marriage application; registration of Declaration
526 of Domestic Partnership; fees.—Upon the receipt of each
527 application for the issuance of a marriage license, or upon
528 registering a Declaration of Domestic Partnership, the county
529 court judge or clerk of the circuit court shall, pursuant to s.
530 741.02, collect and receive a fee of \$4 which shall be remitted
531 to the Department of Revenue for deposit to the Department of
532 Health to defray part of the cost of maintaining marriage and
533 registered domestic partnership records.

534 Section 19. Section 382.023, Florida Statutes, is amended
535 to read:

536 382.023 Department to receive dissolution-of-marriage and
537 dissolution-of-domestic-partnership records; fees.—Clerks of the
538 circuit courts shall collect for their services at the time of
539 the filing of a final judgment of dissolution of marriage or
540 dissolution-of-domestic-partnership a fee of up to \$10.50, of
541 which 43 percent shall be retained by the clerk of the circuit
542 court as a part of the cost in the cause in which the judgment
543 is granted. The remaining 57 percent shall be remitted to the
544 Department of Revenue for deposit to the Department of Health to
545 defray part of the cost of maintaining the dissolution-of-
546 marriage and dissolution-of-domestic-partnership records. A
547 record of each and every judgment of dissolution of marriage and
548 dissolution of domestic partnership granted by the court during
549 the preceding calendar month, giving names of parties and such
550 other data as required by forms prescribed by the department,
551 shall be transmitted to the department, on or before the 10th

31-01660-09

20091642__

552 day of each month, along with an accounting of the funds
553 remitted to the Department of Revenue pursuant to this section.

554 Section 20. Paragraph (a) of subsection (1) and paragraphs
555 (a) and (c) of subsection (2) of section 382.025, Florida
556 Statutes, are amended to read:

557 382.025 Certified copies of vital records; confidentiality;
558 research.—

559 (1) BIRTH RECORDS.—Except for birth records over 100 years
560 old which are not under seal pursuant to court order, all birth
561 records of this state shall be confidential and are exempt from
562 the provisions of s. 119.07(1).

563 (a) Certified copies of the original birth certificate or a
564 new or amended certificate, or affidavits thereof, are
565 confidential and exempt from the provisions of s. 119.07(1) and,
566 upon receipt of a request and payment of the fee prescribed in
567 s. 382.0255, shall be issued only as authorized by the
568 department and in the form prescribed by the department, and
569 only:

570 1. To the registrant, if of legal age;

571 2. To the registrant's parent or guardian or other legal
572 representative;

573 3. Upon receipt of the registrant's death certificate, to
574 the registrant's spouse or domestic partner or to the
575 registrant's child, grandchild, or sibling, if of legal age, or
576 to the legal representative of any of such persons;

577 4. To any person if the birth record is over 100 years old
578 and not under seal pursuant to court order;

579 5. To a law enforcement agency for official purposes;

580 6. To any agency of the state or the United States for

31-01660-09

20091642__

581 official purposes upon approval of the department; or

582 7. Upon order of any court of competent jurisdiction.

583 (2) OTHER RECORDS.—

584 (a) The department shall authorize the issuance of a
585 certified copy of all or part of any marriage, dissolution of
586 marriage, domestic partnership, dissolution of domestic
587 partnership, or death or fetal death certificate, excluding that
588 portion which is confidential and exempt from the provisions of
589 s. 119.07(1) as provided under s. 382.008, to any person
590 requesting it upon receipt of a request and payment of the fee
591 prescribed by this section. A certification of the death or
592 fetal death certificate which includes the confidential portions
593 shall be issued only:

594 1. To the registrant's spouse or domestic partner, or
595 parent, or to the registrant's child, grandchild, or sibling, if
596 of legal age, or to any person who provides a will that has been
597 executed pursuant to s. 732.502, insurance policy, or other
598 document that demonstrates his or her interest in the estate of
599 the registrant, or to any person who provides documentation that
600 he or she is acting on behalf of any of them;

601 2. To any agency of the state or local government or the
602 United States for official purposes upon approval of the
603 department; or

604 3. Upon order of any court of competent jurisdiction.

605 (c) The department shall issue, upon request and upon
606 payment of an additional fee prescribed by this section, a
607 commemorative marriage license or Certificate of Registered
608 Domestic Partnership representing that the marriage or domestic
609 partnership of the persons named thereon is recorded in the

31-01660-09

20091642__

610 office of the registrar. The certificate issued under this
611 paragraph shall be in a form consistent with the need to protect
612 the integrity of vital records but shall be suitable for
613 display. It may bear the seal of the state printed thereon and
614 may be signed by the Governor.

615 Section 21. Paragraph (i) of subsection (1) of section
616 382.0255, Florida Statutes, is amended to read:

617 382.0255 Fees.—

618 (1) The department is entitled to fees, as follows:

619 (i) Twenty-five dollars for a commemorative certificate of
620 birth, ~~or marriage, or domestic partnership~~. Fees collected
621 pursuant to this paragraph in excess of expenses shall be
622 available for use by the Regional Perinatal Intensive Care
623 Centers (RPICC) Program to prevent child abuse and neglect.
624 Funds derived from the issuance of commemorative marriage
625 certificates shall be available for use by the Improved
626 Pregnancy Outcome Program.

627 Section 22. Paragraph (b) of subsection (5) of section
628 446.50, Florida Statutes, is amended to read:

629 446.50 Displaced homemakers; multiservice programs; report
630 to the Legislature; Displaced Homemaker Trust Fund created.—

631 (5) DISPLACED HOME MAKER TRUST FUND.—

632 (b) The trust fund shall receive funds generated from an
633 additional fee on marriage license applications, Declarations of
634 Domestic Partnership, ~~and~~ dissolution of marriage, and
635 dissolution of domestic partnership filings as specified in ss.
636 741.01(3) and 28.101, respectively, and may receive funds from
637 any other public or private source.

638 Section 23. Section 741.01, Florida Statutes, is amended to

31-01660-09

20091642__

639 read:

640 741.01 County court judge or clerk of the circuit court to
641 issue marriage license; fee.-

642 (1) Every marriage license shall be issued by a county
643 court judge or clerk of the circuit court under his or her hand
644 and seal. The county court judge or clerk of the circuit court
645 shall issue such license, upon application for the license, if
646 there appears to be no impediment to the marriage. The county
647 court judge or clerk of the circuit court shall collect and
648 receive a fee of \$2 for receiving the application for the
649 issuance of a marriage license or for registering a Declaration
650 of Domestic Partnership.

651 (2) The fee charged for each marriage license issued and
652 for each Declaration of Domestic Partnership registered in the
653 state shall be increased by the sum of \$25. This fee shall be
654 collected upon receipt of the application for the issuance of a
655 marriage license or upon registering the Declaration of Domestic
656 Partnership and remitted by the clerk to the Department of
657 Revenue for deposit in the Domestic Violence Trust Fund. The
658 Executive Office of the Governor shall establish a Domestic
659 Violence Trust Fund for the purpose of collecting and disbursing
660 funds generated from the increase in the marriage license fee.
661 Such funds which are generated shall be directed to the
662 Department of Children and Family Services for the specific
663 purpose of funding domestic violence centers, and the funds
664 shall be appropriated in a "grants-in-aid" category to the
665 Department of Children and Family Services for the purpose of
666 funding domestic violence centers. From the proceeds of the
667 surcharge deposited into the Domestic Violence Trust Fund as

31-01660-09

20091642

668 required under s. 938.08, the Executive Office of the Governor
669 may spend up to \$500,000 each year for the purpose of
670 administering a statewide public-awareness campaign regarding
671 domestic violence.

672 (3) Further, the fee charged for each marriage license and
673 for each Declaration of Domestic Partnership registered issued
674 in the state shall be increased by an additional sum of \$7.50 to
675 be collected upon receipt of the application for the issuance of
676 a marriage license. The clerk shall transfer such funds monthly
677 to the Department of Revenue for deposit in the Displaced
678 Homemaker Trust Fund created in s. 446.50.

679 (4) An additional fee of \$25 shall be paid to the clerk
680 upon receipt of the application for issuance of a marriage
681 license and for each Declaration of Domestic Partnership
682 registered. The moneys collected shall be remitted by the clerk
683 to the Department of Revenue, monthly, for deposit in the
684 General Revenue Fund.

685 (5) The fee charged for each marriage license issued in the
686 state shall be reduced by a sum of \$32.50 for all couples who
687 present valid certificates of completion of a premarital
688 preparation course from a qualified course provider registered
689 under s. 741.0305(5) for a course taken no more than 1 year
690 before ~~prior to~~ the date of application for a marriage license.
691 For each license issued that is subject to the fee reduction of
692 this subsection, the clerk is not required to transfer the sum
693 of \$7.50 to the Department of Revenue for deposit in the
694 Displaced Homemaker Trust Fund pursuant to subsection (3) or to
695 transfer the sum of \$25 to the Department of Revenue for deposit
696 in the General Revenue Fund.

31-01660-09

20091642__

697 Section 24. Section 741.011, Florida Statutes, is amended
698 to read:

699 741.011 Installment payments.—An applicant for a marriage
700 license or a Declaration of Domestic Partnership who is unable
701 to pay the fees required under s. 741.01 in a lump sum may make
702 payment in not more than three installments over a period of 90
703 days. The clerk shall accept installment payments upon receipt
704 of an affidavit that the applicant is unable to pay the fees in
705 a lump-sum payment. Upon receipt of the third or final
706 installment payment, the marriage license application shall be
707 deemed filed, and the clerk shall issue the marriage license to
708 the applicant or register the Declaration of Domestic
709 Partnership and distribute the fees as provided in s. 741.01. In
710 the event that the marriage license fee is paid in installments,
711 the clerk shall retain \$1 from the additional fee imposed
712 pursuant to s. 741.01(4), as a processing fee.

713 Section 25. Section 741.02, Florida Statutes, is amended to
714 read:

715 741.02 Additional fee.—Upon the receipt of each application
716 for the issuance of a marriage license or for registering a
717 Declaration of Domestic Partnership, the county court judge or
718 clerk of the circuit court shall, in addition to the fee allowed
719 by s. 741.01, collect and receive an additional fee of \$4, to be
720 distributed as provided by s. 382.022.

721 Section 26. Section 741.09, Florida Statutes, is amended to
722 read:

723 741.09 Record of license, ~~and~~ certificate, and registered
724 Declaration of Domestic Partnership.—The county court judge and
725 clerk of the circuit court shall keep a correct record of all

31-01660-09

20091642__

726 marriage licenses issued and domestic partnerships registered,
727 with the names of the parties and the date of issuing, and upon
728 the return of the license and certificate shall enter therein
729 the name of the person solemnizing the marriage and the date of
730 marriage.

731 Section 27. Section 741.10, Florida Statutes, is amended to
732 read:

733 741.10 Proof of marriage or registered Declaration of
734 Domestic Partnership where no certificate available.—When any
735 marriage is or has been solemnized by any of the persons named
736 in s. 741.07, and such person has not made a certificate thereof
737 on the marriage license as required by s. 741.08, or when the
738 marriage license or registered Declaration of Domestic
739 Partnership has been lost, or when by reason of death or other
740 cause the proper certificate cannot be obtained, the marriage or
741 registered domestic partnership may be proved by affidavit
742 before any officer authorized to administer oaths made by two
743 competent witnesses who were present and saw the marriage
744 ceremony performed, or the Declaration of Domestic Partnership
745 executed under s. 741.505, which affidavit may be filed and
746 recorded in the office of the county court judge or clerk of the
747 circuit court from which the marriage license issued or in which
748 the Declaration of Domestic Partnership was registered, with the
749 same force and effect as in cases in which the proper
750 certificate has been made, returned and recorded.

751 Section 28. Subsection (3) of section 741.28, Florida
752 Statutes, is amended to read:

753 741.28 Domestic violence; definitions.—As used in ss.
754 741.28-741.31:

31-01660-09

20091642__

755 (3) "Family or household member" means spouses, former
756 spouses, persons related by blood, ~~or~~ marriage, or domestic
757 partnership, persons who are presently residing together as if a
758 family or who have resided together in the past as if a family,
759 and persons who are parents of a child in common regardless of
760 whether they have been married. With the exception of persons
761 who have a child in common, the family or household members must
762 be currently residing or have in the past resided together in
763 the same single dwelling unit.

764 Section 29. For the purpose of incorporating the amendment
765 made by this act to section 741.28, Florida Statutes, in a
766 reference thereto, paragraph (b) of subsection (1) of section
767 921.0024, Florida Statutes, is reenacted to read:

768 921.0024 Criminal Punishment Code; worksheet computations;
769 scoresheets.-

770 (1)

771 (b) WORKSHEET KEY:

772

773 Legal status points are assessed when any form of legal status
774 existed at the time the offender committed an offense before the
775 court for sentencing. Four (4) sentence points are assessed for
776 an offender's legal status.

777

778 Community sanction violation points are assessed when a
779 community sanction violation is before the court for sentencing.
780 Six (6) sentence points are assessed for each community sanction
781 violation and each successive community sanction violation,
782 unless any of the following apply:

783 1. If the community sanction violation includes a new

31-01660-09

20091642__

784 felony conviction before the sentencing court, twelve (12)
785 community sanction violation points are assessed for the
786 violation, and for each successive community sanction violation
787 involving a new felony conviction.

788 2. If the community sanction violation is committed by a
789 violent felony offender of special concern as defined in s.
790 948.06:

791 a. Twelve (12) community sanction violation points are
792 assessed for the violation and for each successive violation of
793 felony probation or community control where:

794 (I) The violation does not include a new felony conviction;
795 and

796 (II) The community sanction violation is not based solely
797 on the probationer or offender's failure to pay costs or fines
798 or make restitution payments.

799 b. Twenty-four (24) community sanction violation points are
800 assessed for the violation and for each successive violation of
801 felony probation or community control where the violation
802 includes a new felony conviction.

803

804 Multiple counts of community sanction violations before the
805 sentencing court shall not be a basis for multiplying the
806 assessment of community sanction violation points.

807

808 Prior serious felony points: If the offender has a primary
809 offense or any additional offense ranked in level 8, level 9, or
810 level 10, and one or more prior serious felonies, a single
811 assessment of thirty (30) points shall be added. For purposes of
812 this section, a prior serious felony is an offense in the

31-01660-09

20091642

813 offender's prior record that is ranked in level 8, level 9, or
814 level 10 under s. 921.0022 or s. 921.0023 and for which the
815 offender is serving a sentence of confinement, supervision, or
816 other sanction or for which the offender's date of release from
817 confinement, supervision, or other sanction, whichever is later,
818 is within 3 years before the date the primary offense or any
819 additional offense was committed.

820

821 Prior capital felony points: If the offender has one or more
822 prior capital felonies in the offender's criminal record, points
823 shall be added to the subtotal sentence points of the offender
824 equal to twice the number of points the offender receives for
825 the primary offense and any additional offense. A prior capital
826 felony in the offender's criminal record is a previous capital
827 felony offense for which the offender has entered a plea of nolo
828 contendere or guilty or has been found guilty; or a felony in
829 another jurisdiction which is a capital felony in that
830 jurisdiction, or would be a capital felony if the offense were
831 committed in this state.

832

833 Possession of a firearm, semiautomatic firearm, or machine gun:
834 If the offender is convicted of committing or attempting to
835 commit any felony other than those enumerated in s. 775.087(2)
836 while having in his or her possession: a firearm as defined in
837 s. 790.001(6), an additional eighteen (18) sentence points are
838 assessed; or if the offender is convicted of committing or
839 attempting to commit any felony other than those enumerated in
840 s. 775.087(3) while having in his or her possession a
841 semiautomatic firearm as defined in s. 775.087(3) or a machine

31-01660-09

20091642__

842 gun as defined in s. 790.001(9), an additional twenty-five (25)
843 sentence points are assessed.

844

845 Sentencing multipliers:

846

847 Drug trafficking: If the primary offense is drug trafficking
848 under s. 893.135, the subtotal sentence points are multiplied,
849 at the discretion of the court, for a level 7 or level 8
850 offense, by 1.5. The state attorney may move the sentencing
851 court to reduce or suspend the sentence of a person convicted of
852 a level 7 or level 8 offense, if the offender provides
853 substantial assistance as described in s. 893.135(4).

854

855 Law enforcement protection: If the primary offense is a
856 violation of the Law Enforcement Protection Act under s.
857 775.0823(2), (3), or (4), the subtotal sentence points are
858 multiplied by 2.5. If the primary offense is a violation of s.
859 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
860 are multiplied by 2.0. If the primary offense is a violation of
861 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
862 Protection Act under s. 775.0823(10) or (11), the subtotal
863 sentence points are multiplied by 1.5.

864

865 Grand theft of a motor vehicle: If the primary offense is grand
866 theft of the third degree involving a motor vehicle and in the
867 offender's prior record, there are three or more grand thefts of
868 the third degree involving a motor vehicle, the subtotal
869 sentence points are multiplied by 1.5.

870

31-01660-09

20091642__

871 Offense related to a criminal gang: If the offender is convicted
872 of the primary offense and committed that offense for the
873 purpose of benefiting, promoting, or furthering the interests of
874 a criminal gang as prohibited under s. 874.04, the subtotal
875 sentence points are multiplied by 1.5.

876

877 Domestic violence in the presence of a child: If the offender is
878 convicted of the primary offense and the primary offense is a
879 crime of domestic violence, as defined in s. 741.28, which was
880 committed in the presence of a child under 16 years of age who
881 is a family or household member as defined in s. 741.28(3) with
882 the victim or perpetrator, the subtotal sentence points are
883 multiplied by 1.5.

884 Section 30. For the purpose of incorporating the amendment
885 made by this act to section 741.28, Florida Statutes, in a
886 reference thereto, paragraph (b) of subsection (2) of section
887 943.171, Florida Statutes, is reenacted to read:

888 943.171 Basic skills training in handling domestic violence
889 cases.—

890 (2) As used in this section, the term:

891 (b) "Household member" has the meaning set forth in s.
892 741.28(3).

893 Section 31. This act shall take effect July 1, 2009.