

By the Committee on Children, Families, and Elder Affairs; and
Senators Sobel, Abruzzo, Clemens, Soto, and Bullard

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1 A bill to be entitled
2 An act relating to domestic partners; amending s.
3 28.24, F.S.; authorizing the clerk of the circuit
4 court to collect a filing fee for domestic partner
5 registrations; amending s. 382.009, F.S.; requiring
6 notification of a patient's domestic partner in the
7 event of the brain death of the patient; amending s.
8 394.459, F.S.; providing access to a mental health
9 patient by his or her domestic partner; amending s.
10 400.022, F.S.; requiring that nursing homes allow a
11 domestic partner access to his or her partner who is a
12 resident and requiring that the domestic partner be
13 allowed to meet with the families of other residents;
14 amending s. 406.50, F.S.; requiring notification of a
15 decedent's domestic partner before the decedent's body
16 can be used for medical education or research;
17 amending s. 408.051, F.S.; adding "domestic partner"
18 to the definition of the term "patient
19 representative"; amending s. 429.28, F.S.; requiring
20 that assisted living facilities allow domestic
21 partners to share a room; amending s. 429.85, F.S.;
22 requiring that adult family-care homes allow domestic
23 partners to share a room; amending s. 446.50, F.S.;
24 providing a cross-reference; amending s. 497.005,
25 F.S.; adding domestic partner to the individuals
26 regarded as legally authorized persons for purposes of
27 making funeral arrangements of a deceased; amending s.
28 497.152, F.S.; prohibiting the disposition or
29 disinterment of a decedent's body without written

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30 authorization from his or her surviving domestic
31 partner; amending s. 741.01, F.S.; directing the
32 Executive Office of the Governor to establish a
33 Domestic Violence Trust Fund for the purpose of
34 collecting and disbursing funds generated from the
35 Declaration of Domestic Partnership fee; creating s.
36 741.501, F.S.; providing legislative findings;
37 creating s. 741.502, F.S.; providing definitions;
38 creating s. 741.503, F.S.; requiring the Department of
39 Health to adopt forms; creating s. 741.504, F.S.;
40 establishing requirements for domestic partnership;
41 providing criminal penalties for providing false
42 information; creating s. 741.505, F.S.; specifying
43 prohibitions to forming domestic partnerships under
44 certain circumstances; creating s. 741.506, F.S.;
45 identifying rights afforded to domestic partners;
46 providing for enforcement of such rights; creating s.
47 741.507, F.S.; providing fees for establishing and
48 terminating a domestic partnership; creating s.
49 741.508, F.S.; providing methods to prove the
50 existence of a domestic partnership under certain
51 circumstances; creating s. 741.509, F.S.; providing
52 for termination of a domestic partnership; creating s.
53 741.510, F.S.; providing that the act does not preempt
54 the authority of a county or municipality to enact a
55 domestic partnership ordinance unless in conflict with
56 the act; amending s. 765.105, F.S.; including a
57 patient's domestic partner as one of several specified
58 persons who may seek judicial intervention to question

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59 the patient's health care decision; amending s.
60 765.401, F.S.; adding a domestic partner to the list
61 of individuals who may serve as a health care proxy;
62 amending s. 765.512, F.S.; providing that a domestic
63 partner may make an anatomical gift on behalf of the
64 decedent; amending s. 765.517; adding a domestic
65 partner to the list of people who may receive
66 remainder of body parts after an anatomical gift;
67 amending s. 872.04, F.S.; requiring written
68 authorization of a domestic partner to perform an
69 autopsy on his or her deceased partner if no health
70 care surrogate has been designated; providing an
71 effective date.

72

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

74

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

77 28.24 Service charges by clerk of the circuit court.—The
78 clerk of the circuit court shall charge for services rendered by
79 the clerk's office in recording documents and instruments and in
80 performing the duties enumerated in amounts not to exceed those
81 specified in this section. Notwithstanding any other provision
82 of this section, the clerk of the circuit court shall provide
83 without charge to the state attorney, public defender, guardian
84 ad litem, public guardian, attorney ad litem, criminal conflict
85 and civil regional counsel, and private court-appointed counsel
86 paid by the state, and to the authorized staff acting on behalf
87 of each, access to and a copy of any public record, if the

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88 requesting party is entitled by law to view the exempt or
 89 confidential record, as maintained by and in the custody of the
 90 clerk of the circuit court as provided in general law and the
 91 Florida Rules of Judicial Administration. The clerk of the
 92 circuit court may provide the requested public record in an
 93 electronic format in lieu of a paper format when capable of
 94 being accessed by the requesting entity.

95

96 Charges

97

98 (29) Upon receipt of a Declaration of Domestic Partnership,
 99 for preparing and administering of oath, and filing and
 100 providing a certified copy the domestic partnership,\$30.00.

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

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

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

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

113 394.459 Rights of patients.—

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

115 (c) Each facility must permit immediate access to any
 116 patient, subject to the patient's right to deny or withdraw

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

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

135 400.022 Residents' rights.—

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

141 (c) Any entity or individual that provides health, social,
142 legal, or other services to a resident has the right to have
143 reasonable access to the resident. The resident has the right to
144 deny or withdraw consent to access at any time by any entity or
145 individual. Notwithstanding the visiting policy of the facility,

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146 the following individuals must be permitted immediate access to
147 the resident:

148 1. Any representative of the federal or state government,
149 including, but not limited to, representatives of the Department
150 of Children and Family Services, the Department of Health, the
151 Agency for Health Care Administration, the Office of the
152 Attorney General, and the Department of Elderly Affairs; any law
153 enforcement officer; members of the state or local ombudsman
154 council; and the resident's individual physician.

155 2. Subject to the resident's right to deny or withdraw
156 consent, immediate family, including the resident's domestic
157 partner, or other relatives of the resident.

158
159 The facility must allow representatives of the State Long-Term
160 Care Ombudsman Council to examine a resident's clinical records
161 with the permission of the resident or the resident's legal
162 representative and consistent with state law.

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

167 Section 5. Section 406.50, Florida Statutes, is amended to
168 read:

169 406.50 Unclaimed dead bodies or human remains; disposition,
170 procedure.—All public officers, agents, or employees of every
171 county, city, village, town, or municipality and every person in
172 charge of any prison, morgue, hospital, funeral parlor, or
173 mortuary and all other persons coming into possession, charge,
174 or control of any dead human body or remains which are unclaimed

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175 or which are required to be buried or cremated at public expense
176 are hereby required to notify, immediately, the anatomical
177 board, whenever any such body, bodies, or remains come into its
178 possession, charge, or control. Notification of the anatomical
179 board is not required if the death was caused by crushing
180 injury, the deceased had a contagious disease, an autopsy was
181 required to determine cause of death, the body was in a state of
182 severe decomposition, or a family member, including a domestic
183 partner, objects to use of the body for medical education and
184 research.

185 (1) The person or entity in charge or control of the dead
186 body or human remains shall make a reasonable effort to
187 determine:

188 (a) The identity of the deceased person and shall further
189 make a reasonable effort to contact any relatives, including a
190 domestic partner, of such deceased person.

191 (b) Whether or not the deceased person is entitled to
192 burial in a national cemetery as a veteran of the armed forces
193 and, if so, shall make arrangements for such burial services in
194 accordance with the provisions of 38 C.F.R. For purposes of this
195 subsection, "a reasonable effort" includes contacting the county
196 veterans service office or regional office of the United States
197 Department of Veterans Affairs.

198 (2) Such dead human bodies as described in this chapter
199 shall be delivered to the anatomical board as soon as possible
200 after death.

201 (3) Nothing herein shall affect the right of a medical
202 examiner to hold such dead body or remains for the purpose of
203 investigating the cause of death, nor shall this chapter affect

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204 the right of any court of competent jurisdiction to enter an
205 order affecting the disposition of such body or remains.

206 (4) In the event more than one legally authorized person
207 claims a body for interment, the requests shall be prioritized
208 in accordance with s. 732.103.

209

210 For purposes of this chapter, the term "anatomical board" means
211 the anatomical board of this state located at the University of
212 Florida Health Science Center, and the term "unclaimed" means a
213 dead body or human remains that is not claimed by a legally
214 authorized person, as defined in s. 497.005, for interment at
215 that person's expense.

216 Section 6. Paragraph (g) of subsection (2) of section
217 408.051, Florida Statutes, is amended to read:

218 408.051 Florida Electronic Health Records Exchange Act.—

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

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

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233 or guardian of a surviving minor child.

234 Section 7. Paragraph (g) of subsection (1) of section
235 429.28, Florida Statutes, is amended to read:

236 429.28 Resident bill of rights.—

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

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

244 Section 8. Paragraph (g) of subsection (1) of section
245 429.85, Florida Statutes, is amended to read:

246 429.85 Residents' bill of rights.—

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

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

254 Section 9. Paragraph (b) of subsection (5) of section
255 446.50, Florida Statutes, is amended to read:

256 446.50 Displaced homemakers; multiservice programs; report
257 to the Legislature; Displaced Homemaker Trust Fund created.—

258 (5) DISPLACED HOME MAKER TRUST FUND.—

259 (b) The trust fund shall receive funds generated from an
260 additional fee on marriage license applications and dissolution
261 of marriage filings as specified in ss. 741.01(3), 741.507, and

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262 28.101, respectively, and may receive funds from any other
263 public or private source.

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

266 497.005 Definitions.—As used in this chapter, the term:

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

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

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

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

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

284 (e) A parent;

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

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

287 (h) A grandparent; or

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

289

290 In addition, the term may include, if no family member exists or

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291 is available, the guardian of the dead person at the time of
292 death; the personal representative of the deceased; the attorney
293 in fact of the dead person at the time of death; the health
294 surrogate of the dead person at the time of death; a public
295 health officer; the medical examiner, county commission, or
296 administrator acting under part II of chapter 406 or other
297 public administrator; a representative of a nursing home or
298 other health care institution in charge of final disposition; or
299 a friend or other person not listed in this subsection who is
300 willing to assume the responsibility as the legally authorized
301 person. Where there is a person in any priority class listed in
302 this subsection, the funeral establishment shall rely upon the
303 authorization of any one legally authorized person of that class
304 if that person represents that she or he is not aware of any
305 objection to the cremation of the deceased's human remains by
306 others in the same class of the person making the representation
307 or of any person in a higher priority class.

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

310 497.152 Disciplinary grounds.—This section sets forth
311 conduct that is prohibited and that shall constitute grounds for
312 denial of any application, imposition of discipline, or other
313 enforcement action against the licensee or other person
314 committing such conduct. For purposes of this section, the
315 requirements of this chapter include the requirements of rules
316 adopted under authority of this chapter. No subsection heading
317 in this section shall be interpreted as limiting the
318 applicability of any paragraph within the subsection.

319 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF HUMAN

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320 REMAINS.—

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

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

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

330 (2) The fee charged for each marriage license issued in the
331 state shall be increased by the sum of \$25. This fee shall be
332 collected upon receipt of the application for the issuance of a
333 marriage license and remitted by the clerk to the Department of
334 Revenue for deposit in the Domestic Violence Trust Fund. The
335 Executive Office of the Governor shall establish a Domestic
336 Violence Trust Fund for the purpose of collecting and disbursing
337 funds generated from the increase in the marriage license fee
338 and the Declaration of Domestic Partnership fee collected
339 pursuant to s. 741.507. Such funds which are generated shall be
340 directed to the Department of Children and Family Services for
341 the specific purpose of funding domestic violence centers, and
342 the funds shall be appropriated in a "grants-in-aid" category to
343 the Department of Children and Family Services for the purpose
344 of funding domestic violence centers. From the proceeds of the
345 surcharge deposited into the Domestic Violence Trust Fund as
346 required under s. 938.08, the Executive Office of the Governor
347 may spend up to \$500,000 each year for the purpose of
348 administering a statewide public-awareness campaign regarding

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349 domestic violence.

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

352 741.501 Legislative findings.—The Legislature finds that:

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

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

364 (3) The status of marriage in this state is limited by Art.
365 I of the State Constitution to the union of one man and one
366 woman and the Legislature does not seek to alter the definition
367 of marriage in any way. The Legislature also finds, however,
368 that recognition of domestic partnerships can provide an
369 alternative mechanism for extending certain important rights and
370 responsibilities to individuals who choose to form long-term,
371 mutually supportive relationships. Such recognition will provide
372 support to these familial relationships without affecting the
373 definition of marriage, without creating or recognizing a legal
374 relationship that is the substantial equivalent of marriage, and
375 without affecting restrictions contained in federal law. This
376 law does not alter, affect, or contravene any municipal, county,
377 state, or federal law that defines marriage, nor shall it be

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378 interpreted as recognizing or treating a domestic partnership as
379 a marriage.

380 (4) Because of the material and other support that domestic
381 partnerships provide to their participants, these relationships
382 should be formally recognized and made uniform by law.
383 Recognition of these relationships will also promote employee
384 recruitment, employee retention, and employee loyalty for
385 employers within this state; and will promote economic
386 development by attracting companies to this state which value
387 diversity and protections for their employees. Therefore, the
388 Legislature declares that it is the policy of this state to
389 establish and define the rights and responsibilities of domestic
390 partners.

391 Section 14. Section 741.502, Florida Statutes, is created
392 to read:

393 741.502 Definitions.—As used in ss. 741.501-741.510, the
394 term:

395 (1) "Correctional facility" means any penal, correctional,
396 or detention facility operated by the state, one or more
397 counties, a municipality, or a private corporation.

398 (2) "Domestic partner" means a person who enters into a
399 domestic partnership.

400 (3) "Domestic partnership" means a civil contract that
401 meets the requirements of s. 741.505.

402 (4) "Health care facility" means a facility licensed under
403 chapter 395, chapter 400, or chapter 429 or defined in s.
404 394.455.

405 (5) "Mutual residence" means a residence that is shared,
406 without the necessity that the legal right to possess the

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407 property be in the name of both residents and regardless of
408 whether either resident has another dwelling.

409 Section 15. Section 741.503, Florida Statutes, is created
410 to read:

411 741.503 Forms.—The Department of Health shall prepare and
412 adopt the following forms:

413 (1) Declaration of Domestic Partnership.

414 (2) Certificate of Domestic Partnership.

415 (3) Notice of Termination of Domestic Partnership.

416 (4) Certificate of Termination of Domestic Partnership.

417 Section 16. Section 741.504, Florida Statutes, is created
418 to read:

419 741.504 Domestic partnership requirements.—

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

423 (a) A statement attesting that each party is 18 years of
424 age or older. The clerk may accept any reasonable proof of an
425 individual's age, but the clerk must accept a driver license or
426 passport.

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

429 (c) A statement attesting that both parties share a mutual
430 residence.

431 (d) A statement attesting that formation of a domestic
432 partnership is not prohibited under s. 741.505.

433 (e) A mailing address for each party.

434 (f) The notarized signature of each party, along with a
435 declaration that the representations made on the form are true

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436 and correct and contain no material omissions of fact to the
437 best knowledge and belief of each party.

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

442 (3) If the Declaration of Domestic Partnership satisfies
443 the requirements of this section, the clerk of the circuit court
444 shall:

445 (a) Record the Declaration of Domestic Partnership in the
446 official records.

447 (b) Issue a Certificate of Domestic Partnership to the
448 partners in person or at the mailing address provided.

449 Section 17. Section 741.505, Florida Statutes, is created
450 to read:

451 741.505 Prohibitions to forming a domestic partnership.—A
452 domestic partnership is prohibited if:

453 (1) Either party is married to a different person, unless
454 the marriage has been legally terminated.

455 (2) Either party is a party to a domestic partnership with
456 a different domestic partner, unless the domestic partnership
457 has been legally terminated.

458 (3) The parties are related by lineal consanguinity or are
459 siblings, or if one party is the niece or nephew of the other
460 party.

461 (4) Either party is incapable of making the civil contract
462 or of consenting to the contract for want of legal age or
463 sufficient understanding.

464 (5) Consent to formation of the domestic partnership by

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465 either party is obtained by force, fraud, or duress.

466 Section 18. Section 741.506, Florida Statutes, is created
467 to read:

468 741.506 Domestic partnership; rights; enforcement.—

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

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

473 (3) Any public or private entity that provides notice to a
474 spouse or relative in the event of an emergency shall provide
475 notice to a domestic partner.

476 (4) Domestic partners have the same right to jointly own
477 property by tenancy by the entirety, and all legal attributes
478 thereof, as is afforded to spouses.

479 (5) In the absence of a written designation of a healthcare
480 surrogate, a domestic partner has the same right to serve as
481 proxy, as provided in chapter 765, as a spouse.

482 (6) A decedent's domestic partner has the authority to act
483 as "patient's representative" and to direct the disposition of
484 the decedent's body as provided in chapters 382, 406, 408, 497,
485 765, and 872.

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

490 Section 19. Section 741.507, Florida Statutes, is created
491 to read:

492 741.507 Fees.—

493 (1) Upon receipt of a Declaration of Domestic Partnership,

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494 the clerk of the circuit court shall collect and receive:

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

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

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

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

502 (e) A fee of \$7.50 to be remitted to the Department of
503 Revenue for deposit into the Displaced Homemaker Trust Fund
504 created in s. 446.50.

505 (2) An applicant for a Certificate of Domestic Partnership
506 who cannot pay the fees required under subsection (1) in a lump
507 sum may make payment in not more than three installments over a
508 period of 90 days. The clerk shall accept installment payments
509 upon receipt of an affidavit that the applicant cannot pay the
510 fees in a lump-sum payment. Upon receipt of the third or final
511 installment payment, the Declaration of Domestic Partnership
512 shall be deemed filed, and the clerk shall issue the Certificate
513 of Domestic Partnership and distribute the fees as provided in
514 subsection (1). If the fees are paid in installments, the clerk
515 shall retain \$1 from the fee imposed pursuant to paragraph
516 (1) (b) as a processing fee.

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

520 Section 20. Section 741.508, Florida Statutes, is created
521 to read:

522 741.508 Proof of domestic partnership if certificate is not

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523 available.-

524 (1) If the Certificate of Domestic Partnership is not
525 available, the domestic partnership may be proved by an
526 affidavit before any officer authorized to administer oaths
527 which is made by two competent witnesses who were present and
528 saw the Declaration of Domestic Partnership executed.

529 (2) The clerk of the circuit court of the county in which
530 the Declaration of Domestic Partnership originally was executed
531 shall file and record the affidavit and shall issue a new
532 certificate, which has the same force and effect as the
533 original.

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

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

538 (b) The certificate is lost; or

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

541 Section 21. Section 741.509, Florida Statutes, is created
542 to read:

543 741.509 Termination of partnership.-

544 (1) A party to a domestic partnership may terminate the
545 partnership by filing a Notice of Termination of Domestic
546 Partnership with the clerk of the circuit court and by paying
547 the filing fee established under s. 741.507. The notice must be
548 signed by at least one of the parties and notarized. If the
549 notice is not signed by both parties, the party who seeks
550 termination must also file with the clerk an affidavit stating
551 that:

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

554 (b) The party who seeks termination has not been able to
555 find the other party after reasonable effort and that notice has
556 been made pursuant to s. 50.011 by publication in a newspaper of
557 general distribution in the county where the domestic partners
558 were last domiciled.

559 (2) The domestic partnership is terminated effective 90
560 days after the date of filing the notice of termination and
561 payment of the filing fee.

562 (3) Upon receipt of a signed, notarized notice of
563 termination, affidavit, if required, and filing fee, the clerk
564 of the circuit court shall file the notice of termination and
565 issue a Certificate of Termination of Domestic Partnership to
566 each party in person or at the mailing address provided on the
567 notice.

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

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

573 (b) One party dies, except that the death of a domestic
574 partner does not extinguish the surviving domestic partner's
575 rights with respect to the medical record of, or information
576 relating to, the decedent and with respect to the disposition of
577 the decedent's body and the decedent's funeral arrangements.

578 (5) If a domestic partnership is automatically terminated,
579 at least one party must file a notice of termination with the
580 clerk of the circuit court within 30 days of the event causing

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581 the automatic termination.

582 Section 22. Section 741.510, Florida Statutes, is created
583 to read:

584 741.510 Preemption.—This act does not preempt the authority
585 of a county or municipality to enact a domestic partnership
586 ordinance that is not in conflict with this act.

587 Section 23. Section 765.105, Florida Statutes, is amended
588 to read:

589 765.105 Review of surrogate or proxy's decision.—The
590 patient's family, including the patient's domestic partner, the
591 health care facility, or the attending physician, or any other
592 interested person who may reasonably be expected to be directly
593 affected by the surrogate or proxy's decision concerning any
594 health care decision may seek expedited judicial intervention
595 pursuant to rule 5.900 of the Florida Probate Rules, if that
596 person believes:

597 (1) The surrogate or proxy's decision is not in accord with
598 the patient's known desires or the provisions of this chapter;

599 (2) The advance directive is ambiguous, or the patient has
600 changed his or her mind after execution of the advance
601 directive;

602 (3) The surrogate or proxy was improperly designated or
603 appointed, or the designation of the surrogate is no longer
604 effective or has been revoked;

605 (4) The surrogate or proxy has failed to discharge duties,
606 or incapacity or illness renders the surrogate or proxy
607 incapable of discharging duties;

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

609 (6) The patient has sufficient capacity to make his or her

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610 own health care decisions.

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

613 765.401 The proxy.—

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

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

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

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

633 (d) A parent of the patient;

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

637 (f) An adult relative of the patient who has exhibited
638 special care and concern for the patient and who has maintained

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639 regular contact with the patient and who is familiar with the
640 patient's activities, health, and religious or moral beliefs; ~~or~~

641 (g) A close friend of the patient; or-

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

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

657 765.512 Persons who may make an anatomical gift.-

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

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

665 (b) An anatomical gift made by a qualified donor and not
666 revoked by the donor, as provided in s. 765.516, is irrevocable
667 after the donor's death. A family member, including a domestic

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668 partner, guardian, representative ad litem, or health care
669 surrogate may not modify, deny, or prevent a donor's wish or
670 intent to make an anatomical gift after the donor's death.

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

- 678 (a) The spouse or domestic partner of the decedent;
679 (b) An adult son or daughter of the decedent;
680 (c) Either parent of the decedent;
681 (d) An adult brother or sister of the decedent;
682 (e) An adult grandchild of the decedent;
683 (f) A grandparent of the decedent;
684 (g) A close personal friend, as defined in s. 765.101;
685 (h) A guardian of the person of the decedent at the time of
686 his or her death; or
687 (i) A representative ad litem appointed by a court of
688 competent jurisdiction upon a petition heard ex parte filed by
689 any person, who shall ascertain that no person of higher
690 priority exists who objects to the gift of all or any part of
691 the decedent's body and that no evidence exists of the
692 decedent's having made a communication expressing a desire that
693 his or her body or body parts not be donated upon death.

694
695 Those of higher priority who are reasonably available must be
696 contacted and made aware of the proposed gift and a reasonable

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697 search must be conducted which shows that there would have been
698 no objection to the gift by the decedent.

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

701 765.517 Rights and duties at death.—

702 (1) The donee, pursuant to s. 765.515(2), may accept or
703 reject an anatomical gift. If the donee accepts a gift to be
704 used for research or education purposes, the donee may authorize
705 embalming and the use of the body in funeral services, subject
706 to the terms of the gift. If the gift is of a part of the body,
707 the donee shall cause the part to be removed without unnecessary
708 mutilation upon the death of the donor and before or after
709 embalming. After removal of the body part, custody of the
710 remainder of the body vests in the surviving spouse, domestic
711 partner, next of kin, or other persons under obligation to
712 dispose of the body.

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

715 872.04 Autopsies; consent required, exception.—

716 (2) Unless otherwise authorized by statute, no autopsy
717 shall be performed without the written consent by the health
718 care surrogate, as provided in s. 765.202, if one has been
719 designated. If a health care surrogate has not been designated,
720 then written consent may be provided by the spouse, domestic
721 partner, nearest relative, or, if no such next of kin can be
722 found, the person who has assumed custody of the body for
723 purposes of burial. When two or more persons assume custody of
724 the body for such purposes, then the consent of any one of them
725 shall be sufficient to authorize the autopsy.

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Section 28. This act shall take effect July 1, 2013.