

By Senator Sobel

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1                                   A bill to be entitled  
2       An act relating to domestic partners; amending s.  
3       28.24, F.S.; requiring the clerk of the circuit court  
4       to collect a filing fee for domestic partner  
5       registrations; amending s. 382.009, F.S.; requiring  
6       notification of a patient's domestic partner in the  
7       event of the brain death of the patient; amending s.  
8       394.459, F.S.; requiring a facility providing mental  
9       health services to authorize access to a patient by  
10      his or her domestic partner; amending s. 400.022,  
11      F.S.; requiring that nursing homes allow a domestic  
12      partner access to his or her partner who is a resident  
13      and requiring that the domestic partner be allowed to  
14      meet with the families of other residents; amending s.  
15      406.50, F.S.; including a domestic partner as a  
16      legally authorized person who may object to the use of  
17      unclaimed remains for medical education or research;  
18      requiring a person or entity in charge of or in  
19      control of the remains to make a reasonable effort to  
20      determine the identity of the decedent and contact the  
21      decedent's relatives, including the domestic partner;  
22      authorizing a funeral director to assume  
23      responsibility as the legally authorized person if  
24      there is no relative or domestic partner; amending s.  
25      408.051, F.S.; adding "domestic partner" to the  
26      definition of the term "patient representative" as it  
27      relates to the Florida Electronic Health Records  
28      Exchange Act; amending s. 429.28, F.S.; requiring that  
29      assisted living facilities allow domestic partners to

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30 share a room; amending s. 429.85, F.S.; requiring that  
31 adult family-care homes allow domestic partners to  
32 share a room; amending s. 446.50, F.S.; providing for  
33 deposit of moneys generated from the fee charged for a  
34 Declaration of Domestic Partnership into the Displaced  
35 Homemaker Trust Fund; amending s. 497.005, F.S.;  
36 including a domestic partner as a legally authorized  
37 person who may make funeral arrangements for a  
38 decedent; amending s. 497.152, F.S.; adding the  
39 domestic partner to the list of persons whose written  
40 authorization must be obtained prior to the  
41 entombment, interment, disinterment, disentombment, or  
42 disinurnment of a person's remains; amending s.  
43 741.01, F.S.; requiring that funds generated from the  
44 Declaration of Domestic Partnership fee be deposited  
45 in and disbursed from the Domestic Violence Trust  
46 Fund; creating s. 741.501, F.S.; providing legislative  
47 findings; creating s. 741.502, F.S.; providing  
48 definitions; creating s. 741.503, F.S.; requiring the  
49 Department of Health to adopt forms; creating s.  
50 741.504, F.S.; establishing requirements for domestic  
51 partnership; providing criminal penalties for  
52 providing false information; creating s. 741.505,  
53 F.S.; specifying prohibitions to forming domestic  
54 partnerships under certain circumstances; creating s.  
55 741.506, F.S.; identifying rights afforded to domestic  
56 partners; providing for the enforcement of such  
57 rights; creating s. 741.507, F.S.; providing fees for  
58 establishing and terminating a domestic partnership;

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59 creating s. 741.508, F.S.; providing methods to prove  
60 the existence of a domestic partnership under certain  
61 circumstances; creating s. 741.509, F.S.; providing  
62 for termination of a domestic partnership; creating s.  
63 741.510; providing that the act does not preempt the  
64 authority of a county or municipality to enact a  
65 domestic partnership ordinance that does not conflict  
66 with the act; amending s. 765.105, F.S.; including a  
67 patient's domestic partner as one of several specified  
68 persons who may seek judicial intervention to question  
69 the surrogate's or proxy's health care decisions;  
70 amending s. 765.401, F.S.; providing that a domestic  
71 partner may serve as a health care proxy; amending s.  
72 765.512, F.S.; providing that the domestic partner may  
73 make an anatomical gift on behalf of a decedent;  
74 amending s. 765.517; adding a domestic partner to the  
75 list of people who may receive the remainder of body  
76 parts after an anatomical gift; amending s. 872.04,  
77 F.S.; requiring written authorization of a domestic  
78 partner to perform an autopsy on his or her deceased  
79 partner if no health care surrogate has been  
80 designated; providing an effective date.

81

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

83

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

86 28.24 Service charges.—The clerk of the circuit court shall  
87 charge for services rendered manually or electronically by the

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88 clerk's office in recording documents and instruments and in  
89 performing other specified duties. These charges may not exceed  
90 those specified in this section, except as provided in s.  
91 28.345.

93 Charges

94  
95 (29) Upon receipt of a Declaration of Domestic Partnership,  
96 for preparation and administration of oath and for filing and  
97 providing a certified copy of the declaration.....30.00

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

100 382.009 Recognition of brain death under certain  
101 circumstances.-

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

109 Section 3. Paragraph (c) of subsection (5) of section  
110 394.459, Florida Statutes, is amended to read:

111 394.459 Rights of patients.-

112 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.-

113 (c) Each facility must permit immediate access to any  
114 patient, subject to the patient's right to deny or withdraw  
115 consent at any time, by the patient's family members, including  
116 the patient's domestic partner, guardian, guardian advocate,

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

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

133 400.022 Residents' rights.-

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

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

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

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

156  
157 The facility shall ~~must~~ allow representatives of the State Long-  
158 Term Care Ombudsman Council to examine a resident's clinical  
159 records with the permission of the resident or the resident's  
160 legal representative and consistent with state law.

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

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

167 406.50 Unclaimed remains; disposition, procedure.—

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

172 (a) The unclaimed remains are decomposed or mutilated by  
173 wounds;

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

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175 (c) The remains contain a contagious disease;

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

179 (e) The deceased person was a veteran of the United States  
180 Armed Forces, United States Reserve Forces, or National Guard  
181 and is eligible for burial in a national cemetery or was the  
182 spouse or dependent child of a veteran eligible for burial in a  
183 national cemetery.

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

187 (a) Determine the identity of the deceased person and  
188 contact any relatives, including a domestic partner, of the  
189 deceased person.

190 (b) Determine whether the deceased person is eligible under  
191 38 C.F.R. s. 38.620 for burial in a national cemetery as a  
192 veteran of the Armed Forces of the United States and, if  
193 eligible, to cause the deceased person's remains or cremated  
194 remains to be delivered to a national cemetery.

195  
196 For purposes of this subsection, "a reasonable effort" includes  
197 contacting the National Cemetery Scheduling Office, the county  
198 veterans service office, or the regional office of the United  
199 States Department of Veterans Affairs.

200 (3) Unclaimed remains shall be delivered to the anatomical  
201 board as soon as possible after death. If a relative or a  
202 domestic partner does not exist ~~When no family exists~~ or is not  
203 available, a funeral director licensed under chapter 497 may

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204 assume the responsibility of a legally authorized person and  
205 may, ~~after 24 hours~~ or more after ~~have elapsed since~~ the time of  
206 death, authorize arterial embalming for the purposes of storage  
207 and delivery of unclaimed remains to the anatomical board. A  
208 funeral director licensed under chapter 497 is not liable for  
209 damages under this subsection.

210 Section 6. Paragraph (g) of subsection (2) of section  
211 408.051, Florida Statutes, is amended to read:

212 408.051 Florida Electronic Health Records Exchange Act.—

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

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

229 Section 7. Paragraph (g) of subsection (1) of section  
230 429.28, Florida Statutes, is amended to read:

231 429.28 Resident bill of rights.—

232 (1) No resident of a facility shall be deprived of any



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233 civil or legal rights, benefits, or privileges guaranteed by  
234 law, the Constitution of the State of Florida, or the  
235 Constitution of the United States as a resident of a facility.  
236 Every resident of a facility shall have the right to:

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

239 Section 8. Paragraph (g) of subsection (1) of section  
240 429.85, Florida Statutes, is amended to read:

241 429.85 Residents' bill of rights.—

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

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

249 Section 9. Paragraph (b) of subsection (5) of section  
250 446.50, Florida Statutes, is amended to read:

251 446.50 Displaced homemakers; multiservice programs; report  
252 to the Legislature; Displaced Homemaker Trust Fund created.—

253 (5) DISPLACED HOMEMAKER TRUST FUND.—

254 (b) The trust fund shall receive funds generated from the  
255 fee charged for each Declaration of Domestic Partnership as  
256 specified in s. 741.507 and funds generated from an additional  
257 fee on marriage license applications and dissolution of marriage  
258 filings as specified in ss. 741.01(3) and 28.101, respectively,  
259 and may receive funds from any other public or private source.

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

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262 497.005 Definitions.—As used in this chapter, the term:

263 (39) "Legally authorized person" means, in the priority  
264 listed:

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

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

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

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

280 (e) A parent;

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

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

283 (h) A grandparent; or

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

285

286 In addition, the term may include, if there are no existing or  
287 available ~~no~~ family members, including a domestic partner ~~member~~  
288 ~~exists or is available~~, the guardian of the dead person at the  
289 time of death; the personal representative of the deceased; the  
290 attorney in fact of the dead person at the time of death; the

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

305 Section 11. Paragraph (e) of subsection (8) of section  
306 497.152, Florida Statutes, is amended to read:

307 497.152 Disciplinary grounds.—This section sets forth  
308 conduct that is prohibited and that shall constitute grounds for  
309 denial of any application, imposition of discipline, or other  
310 enforcement action against the licensee or other person  
311 committing such conduct. For purposes of this section, the  
312 requirements of this chapter include the requirements of rules  
313 adopted under authority of this chapter. No subsection heading  
314 in this section shall be interpreted as limiting the  
315 applicability of any paragraph within the subsection.

316 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF HUMAN  
317 REMAINS.—

318 (e) Failing to obtain written authorization from the family  
319 or next of kin of the deceased, including the deceased's

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320 domestic partner, before ~~prior to~~ entombment, interment,  
321 disinterment, disentombment, or disinurnment of the remains of  
322 any human being.

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

325 741.01 County court judge or clerk of the circuit court to  
326 issue marriage license; fee.-

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

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

351 741.501 Legislative findings.—The Legislature finds that:

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

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

363 (3) The status of marriage in this state is limited by Art.  
364 I of the State Constitution to the union of one man and one  
365 woman and the Legislature does not seek to alter the definition  
366 of marriage in any way. However, the Legislature also finds that  
367 recognition of domestic partnerships can provide an alternative  
368 mechanism for extending certain important rights and  
369 responsibilities to individuals who choose to form long-term,  
370 mutually supportive relationships. Such recognition will provide  
371 support to these familial relationships without affecting the  
372 definition of marriage, without creating or recognizing a legal  
373 relationship that is the substantial equivalent of marriage, and  
374 without affecting restrictions contained in federal law. This  
375 law does not alter, affect, or contravene any municipal, county,  
376 state, or federal law that defines marriage and may not be  
377 interpreted as recognizing or treating a domestic partnership as

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378 a marriage.

379 (4) Because of the material and other support that domestic  
380 partnerships provide to their participants, these relationships  
381 should be formally recognized and made uniform by law.

382 Recognition of domestic partnerships will also promote employee  
383 recruitment, employee retention, employee loyalty for employers  
384 within this state, and economic development by attracting to  
385 this state companies that value diversity and protections for  
386 their employees. Therefore, the Legislature declares that it is  
387 the policy of this state to establish and define the rights and  
388 responsibilities of domestic partners.

389 Section 14. Section 741.502, Florida Statutes, is created  
390 to read:

391 741.502 Definitions.—As used in ss. 741.501-741.510, the  
392 term:

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

396 (2) "Domestic partner" means a person who enters into a  
397 domestic partnership.

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

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

403 (5) "Mutual residence" means a residence that is shared,  
404 regardless of whether the individuals involved in a domestic  
405 partnership have an individual or joint legal right of  
406 possession to the property and regardless of whether either

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407 resident also resides in another dwelling.

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

410 741.503 Forms.—The Department of Health shall prepare and  
411 adopt the following forms:

412 (1) Declaration of Domestic Partnership.

413 (2) Certificate of Domestic Partnership.

414 (3) Notice of Termination of Domestic Partnership.

415 (4) Certificate of Termination of Domestic Partnership.

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

418 741.504 Domestic partnership requirements.—

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

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

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

428 (c) A statement attesting that the parties share a mutual  
429 residence.

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

432 (e) A mailing address for each party.

433 (f) The notarized signature of each party, along with a  
434 declaration that the representations made on the form are true  
435 and correct and contain no material omissions of fact to the

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436 best knowledge and belief of each party.

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

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

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

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

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

450 741.505 Prohibitions to forming a domestic partnership.—A  
451 domestic partnership is prohibited if:

452 (1) Either party is married to a different person and such  
453 marriage is recognized by this state.

454 (2) Either party is a party to a domestic partnership with  
455 a different domestic partner and such domestic partnership is  
456 recognized by this state.

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

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

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



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

467 741.506 Domestic partnership; rights; enforcement.—

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

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

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

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

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

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

483 (a) Direct the disposition of the decedent's body as  
484 provided in chapters 382, 406, 497, 765, and 872;

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

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

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

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494 Section 19. Section 741.507, Florida Statutes, is created  
495 to read:

496 741.507 Fees.—

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

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

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

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

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

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

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

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

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523 Section 20. Section 741.508, Florida Statutes, is created  
524 to read:

525 741.508 Proof of domestic partnership if certificate is not  
526 available.—

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

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

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

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

541 (b) The certificate is lost; or

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

544 Section 21. Section 741.509, Florida Statutes, is created  
545 to read:

546 741.509 Termination of partnership.—

547 (1) A party to a domestic partnership may terminate the  
548 partnership by filing a Notice of Termination of Domestic  
549 Partnership with the clerk of the circuit court and by paying  
550 the filing fee established under s. 741.507. The notice must be  
551 signed by at least one of the parties and notarized. If the

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552 notice is not signed by both parties, the party who seeks  
553 termination must also file with the clerk an affidavit stating  
554 that:

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

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

562 (2) The domestic partnership is terminated effective 90  
563 days after the date of filing the notice of termination and  
564 payment of the filing fee.

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

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

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

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

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

585       Section 22. Section 741.510, Florida Statutes, is created  
586 to read:

587       741.510 Preemption.—Sections 741.501-741.509 do not preempt  
588 the authority of a county or municipality to enact a domestic  
589 partnership ordinance that is not in conflict with these  
590 sections.

591       Section 23. Section 765.105, Florida Statutes, is amended  
592 to read:

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

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

603       (2) The advance directive is ambiguous, or the patient has  
604 changed his or her mind after execution of the advance  
605 directive;

606       (3) The surrogate or proxy was improperly designated or  
607 appointed, or the designation of the surrogate is no longer  
608 effective or has been revoked;

609       (4) The surrogate or proxy has failed to discharge duties,

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610 or incapacity or illness renders the surrogate or proxy  
611 incapable of discharging duties;

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

613 (6) The patient has sufficient capacity to make his or her  
614 own health care decisions.

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

617 765.401 The proxy.—

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

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

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

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

637 (d) A parent of the patient;

638 (e) The adult sibling of the patient or, if the patient has

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639 more than one sibling, a majority of the adult siblings who are  
640 reasonably available for consultation;

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

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

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

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

662 765.512 Persons who may make an anatomical gift.—

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

665 (a) If the decedent makes an anatomical gift by one of the  
666 methods listed in s. 765.514(1), and in the absence of actual  
667 notice of contrary indications by the decedent, the document or

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668 entry in the donor registry is legally sufficient evidence of  
669 the decedent's informed consent to donate an anatomical gift.

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

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

- 683 (a) The spouse or domestic partner of the decedent;  
684 (b) An adult son or daughter of the decedent;  
685 (c) Either parent of the decedent;  
686 (d) An adult brother or sister of the decedent;  
687 (e) An adult grandchild of the decedent;  
688 (f) A grandparent of the decedent;  
689 (g) A close personal friend, as defined in s. 765.101;  
690 (h) A guardian of the person of the decedent at the time of  
691 his or her death; or  
692 (i) A representative ad litem appointed by a court of  
693 competent jurisdiction upon a petition heard ex parte filed by  
694 any person, who shall ascertain that no person of higher  
695 priority exists who objects to the gift of all or any part of  
696 the decedent's body and that no evidence exists of the



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697 decedent's having made a communication expressing a desire that  
698 his or her body or body parts not be donated upon death.

699  
700 Those of higher priority who are reasonably available must be  
701 contacted and made aware of the proposed gift and a reasonable  
702 search must be conducted which shows that there would have been  
703 no objection to the gift by the decedent.

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

706 765.517 Rights and duties at death.—

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

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

720 872.04 Autopsies; consent required, exception.—

721 (2) Unless otherwise authorized by statute, an ~~no~~ autopsy  
722 may not ~~shall~~ be performed without the written consent of ~~by~~ the  
723 health care surrogate, as provided in s. 765.202, if one has  
724 been designated. If a health care surrogate has not been  
725 designated, ~~then written consent may be provided by~~ the spouse,

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726 domestic partner, nearest relative, or, if no such next of kin  
727 can be found, the person who has assumed custody of the body for  
728 purposes of burial may provide written consent. When two or more  
729 persons assume custody of the body for such purposes, then the  
730 consent of any one of them is ~~shall be~~ sufficient to authorize  
731 the autopsy.

732 Section 28. This act shall take effect July 1, 2014.