

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
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;
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
 87 shall charge for services rendered manually or electronically by
 88 the 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.

92

93 Charges

94

95 (29) Upon receipt of a Declaration of Domestic
 96 Partnership, for preparation and administration of oath and for
 97 filing and 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,
 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:

146 1. A ~~Any~~ representative of the federal or state
 147 government, including, but not limited to, representatives of
 148 the Department of Children and Families, 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
 166 406.50, 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;

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
 191 under 38 C.F.R. s. 38.620 for burial in a national cemetery as a
 192 veteran of the United States Armed Forces and, if eligible, to
 193 cause the deceased person's remains or cremated remains to be
 194 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
 204 assume the responsibility of a legally authorized person and
 205 may, ~~after~~ 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

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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
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
 238 partner 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 HOME MAKER 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:

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 in military service as described in 10
272 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
 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
 317 HUMAN REMAINS.—

318 (e) Failing to obtain written authorization from the
 319 family or next of kin of the deceased, including the deceased's
 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
 328 the state shall be increased by the sum of \$25. This fee shall
 329 be collected upon receipt of the application for the issuance of
 330 a marriage license and remitted by the clerk to the Department
 331 of 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 Families~~ for the specific purpose of
340 funding domestic violence centers, ~~and the funds shall be~~
341 ~~appropriated in a "grants-in-aid" category to the Department of~~
342 ~~Children and Families for the purpose of funding domestic~~
343 ~~violence centers.~~ From the proceeds of the surcharge deposited
344 into the Domestic Violence Trust Fund as required under s.
345 938.08, the Executive Office of the Governor may spend up to
346 \$500,000 each year for the purpose of administering a statewide
347 public-awareness campaign regarding domestic violence.

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

350 741.501 Legislative findings.—The Legislature finds that:

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

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

362 (3) The status of marriage in this state is limited by
363 Art. I of the State Constitution to the union of one man and one
364 woman and the Legislature does not seek to alter the definition

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

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

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

390 741.502 Definitions.—As used in ss. 741.501-741.510, the

391 term:

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

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

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

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

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

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

409 741.503 Forms.—The Department of Health shall prepare and
 410 adopt the following forms:

411 (1) Declaration of Domestic Partnership.

412 (2) Certificate of Domestic Partnership.

413 (3) Notice of Termination of Domestic Partnership.

414 (4) Certificate of Termination of Domestic Partnership.

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

417 741.504 Domestic partnership requirements.—

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

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

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

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

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

431 (e) A mailing address for each party.

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

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

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

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

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

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

449 741.505 Prohibitions to forming a domestic partnership.—A
 450 domestic partnership is prohibited if:

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

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

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

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

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

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

466 741.506 Domestic partnership; rights; enforcement.—

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

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

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

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

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

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

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

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

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

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

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

495 741.507 Fees.—
 496 (1) Upon receipt of a Declaration of Domestic Partnership,
 497 the clerk of the circuit court shall collect and receive:
 498 (a) A fee of \$30 as provided in s. 28.24(29).
 499 (b) A fee of \$2 for receiving the Declaration of Domestic
 500 Partnership.
 501 (c) A fee of \$25 to be remitted to the Department of
 502 Revenue for deposit into the Domestic Violence Trust Fund.
 503 (d) A fee of \$25 to be remitted to the Department of
 504 Revenue for monthly deposit into the General Revenue Fund.
 505 (e) A fee of \$7.50 to be remitted to the Department of
 506 Revenue for deposit into the Displaced Homemaker Trust Fund.
 507 (2) An applicant for a Certificate of Domestic Partnership
 508 who cannot pay the fees required under subsection (1) in a lump
 509 sum may make payment in not more than three installments over a
 510 period of 90 days. The clerk shall accept installment payments
 511 upon receipt of an affidavit that the applicant cannot pay the
 512 fees in a lump-sum payment. Upon receipt of the third or final
 513 installment payment, the Declaration of Domestic Partnership
 514 shall be deemed filed, and the clerk shall issue the Certificate
 515 of Domestic Partnership and distribute the fees as provided in
 516 subsection (1). If the fees are paid in installments, the clerk
 517 shall retain \$1 from the fee imposed pursuant to paragraph
 518 (1)(b) as a processing fee.
 519 (3) Upon receipt of a Notice of Termination of Domestic
 520 Partnership, the clerk of the circuit court shall collect and

521 receive a fee of \$10.

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

524 741.508 Proof of domestic partnership if certificate is
525 not available.-

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

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

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

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

540 (b) The certificate is lost; or

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

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

545 741.509 Termination of partnership.-

546 (1) A party to a domestic partnership may terminate the

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

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

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

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
588 preempt the authority of a county or municipality to enact a
589 domestic partnership ordinance that is not in conflict with
590 these 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
 602 | with the patient's known desires or the provisions of this
 603 | chapter;

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

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

610 | (4) The surrogate or proxy has failed to discharge duties,
 611 | or incapacity or illness renders the surrogate or proxy
 612 | incapable of discharging duties;

613 | (5) The surrogate or proxy has abused powers; or

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

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

618 | 765.401 The proxy.—

619 | (1) If an incapacitated or developmentally disabled
 620 | patient has not executed an advance directive, or designated a
 621 | surrogate to execute an advance directive, or the designated or
 622 | alternate surrogate is no longer available to make health care
 623 | decisions, health care decisions may be made for the patient by
 624 | any of the following individuals, in the following order of

625 priority, if no individual in a prior class is reasonably
626 available, willing, or competent to act:

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

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

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

638 (d) A parent of the patient;

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

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

646 (g) A close friend of the patient; or ~~or~~

647 (h) A clinical social worker licensed under ~~pursuant to~~
648 chapter 491, or who is a graduate of a court-approved
649 guardianship program. ~~Such a proxy must be selected by~~ The
650 provider's bioethics committee shall select such a proxy, who

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651 may ~~and must~~ not be employed by the provider. If the provider
652 does not have a bioethics committee, ~~then~~ such a proxy may be
653 chosen through an arrangement with the bioethics committee of
654 another provider. The proxy will be notified that, upon request,
655 the provider shall make available a second physician, not
656 involved in the patient's care to assist the proxy in evaluating
657 treatment. Decisions to withhold or withdraw life-prolonging
658 procedures will be reviewed by the facility's bioethics
659 committee. Documentation of efforts to locate proxies from prior
660 classes must be recorded in the patient record.

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

663 765.512 Persons who may make an anatomical gift.—

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

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

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

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

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

700
701 Those of higher priority who are reasonably available must be
702 contacted and made aware of the proposed gift and a reasonable

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

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

707 765.517 Rights and duties at death.—

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

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

721 872.04 Autopsies; consent required, exception.—

722 (2) Unless otherwise authorized by statute, an ~~no~~ autopsy
 723 may not ~~shall~~ be performed without the written consent of ~~by~~ the
 724 health care surrogate, as provided in s. 765.202, if one has
 725 been designated. If a health care surrogate has not been
 726 designated, ~~then written consent may be provided by~~ the spouse,
 727 domestic partner, nearest relative, or, if no such next of kin
 728 can be found, the person who has assumed custody of the body for

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729 | purposes of burial may provide written consent. When two or more
730 | persons assume custody of the body for such purposes, then the
731 | consent of any one of them is ~~shall be~~ sufficient to authorize
732 | the autopsy.

733 | Section 28. This act shall take effect July 1, 2015.