

By Senator Sobel

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1 A bill to be entitled
2 An act relating to domestic partnerships; 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 allow a patient to have access to
10 his or her domestic partner; amending s. 400.022,
11 F.S.; requiring a nursing home to allow a resident to
12 have access to his or her domestic partner; requiring
13 that the domestic partner be allowed to meet with the
14 families of other residents; amending s. 406.50, F.S.;
15 including a domestic partner as a legally authorized
16 person who may object to the use of unclaimed remains
17 of a deceased person for medical education or
18 research; requiring a person or entity in charge of or
19 in control of the remains of a deceased person to make
20 a reasonable effort to determine the identity of the
21 decedent and contact the decedent's relatives,
22 including the domestic partner; authorizing a funeral
23 director to assume responsibility as the legally
24 authorized person if there is no relative or domestic
25 partner; amending s. 408.051, F.S.; adding "domestic
26 partner" to the definition of the term "patient
27 representative" as it relates to the Florida
28 Electronic Health Records Exchange Act; amending s.
29 429.28, F.S.; requiring assisted living facilities to
30 allow domestic partners to share a room; amending s.
31 429.85, F.S.; requiring adult family-care homes to
32 allow domestic partners to share a room; amending s.

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33 446.50, F.S.; providing for deposit of moneys
34 generated from the fee charged for a Declaration of
35 Domestic Partnership into the Displaced Homemaker
36 Trust Fund; amending s. 497.005, F.S.; including a
37 domestic partner as a legally authorized person who
38 may make funeral arrangements for a decedent; amending
39 s. 497.152, F.S.; adding the domestic partner to the
40 list of persons whose written authorization must be
41 obtained prior to the entombment, interment,
42 disinterment, disentombment, or disinurnment of a
43 person's remains; amending s. 741.01, F.S.; requiring
44 that funds generated from the Declaration of Domestic
45 Partnership fee be deposited in and disbursed from the
46 Domestic Violence Trust Fund; creating s. 741.501,
47 F.S.; providing legislative findings; creating s.
48 741.502, F.S.; providing definitions; creating s.
49 741.503, F.S.; requiring the Department of Health to
50 adopt forms; creating s. 741.504, F.S.; establishing
51 requirements for domestic partnership; providing
52 criminal penalties for providing false information;
53 creating s. 741.505, F.S.; specifying prohibitions to
54 forming domestic partnerships under certain
55 circumstances; creating s. 741.506, F.S.; identifying
56 rights afforded to domestic partners; providing for
57 the enforcement of such rights; creating s. 741.507,
58 F.S.; providing fees for establishing and terminating
59 a domestic partnership; creating s. 741.508, F.S.;
60 providing methods to prove the existence of a domestic
61 partnership under certain circumstances; creating s.

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62 741.509, F.S.; providing for termination of a domestic
63 partnership; creating s. 741.510, F.S.; providing that
64 the act does not preempt the authority of a county or
65 municipality to enact a domestic partnership ordinance
66 that does not conflict with the act; amending s.
67 765.105, F.S.; including a patient's domestic partner
68 as one of several specified persons who may seek
69 judicial intervention to question the surrogate's or
70 proxy's health care decisions; amending s. 765.401,
71 F.S.; providing that a domestic partner may serve as a
72 health care proxy; amending s. 765.512, F.S.;
73 providing that the domestic partner may make an
74 anatomical gift on behalf of a decedent; amending s.
75 765.517, F.S.; adding a domestic partner to the list
76 of people who may receive the remainder of body parts
77 after an anatomical gift; amending s. 768.18, F.S.;
78 revising the definition of the term "survivors" to
79 include domestic partners; amending s. 872.04, F.S.;
80 requiring written authorization of a domestic partner
81 to perform an autopsy on his or her deceased partner
82 if no health care surrogate has been designated;
83 providing an effective date.

84

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

86

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

89 28.24 Service charges.—The clerk of the circuit court shall
90 charge for services rendered manually or electronically by the

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91 clerk's office in recording documents and instruments and in
92 performing other specified duties. These charges may not exceed
93 those specified in this section, except as provided in s.
94 28.345.

96 Charges

98 (29) Upon receipt of a Declaration of Domestic Partnership,
99 for preparing and administering of oath; issuing of the
100 Certificate of Domestic Partnership and sealing and recording of
101 the declaration; and providing a certified copy of the
102 certificate.30.00

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

105 382.009 Recognition of brain death under certain
106 circumstances.—

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

114 Section 3. Paragraph (c) of subsection (5) of section
115 394.459, Florida Statutes, is amended to read:

116 394.459 Rights of patients.—

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

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

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

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

138 400.022 Residents' rights.—

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

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

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149 facility, the following individuals must be allowed ~~permitted~~
150 immediate access to the resident:

151 1. A ~~Any~~ representative of the federal or state government,
152 including, but not limited to, representatives of the Department
153 of Children and Families, the Department of Health, the Agency
154 for Health Care Administration, the Office of the Attorney
155 General, and the Department of Elderly Affairs; a ~~any~~ law
156 enforcement officer; a ~~any~~ representative of the State Long-Term
157 Care Ombudsman Program; and the resident's individual physician.

158 2. Subject to the resident's right to deny or withdraw
159 consent, immediate family, including the resident's domestic
160 partner, or other relatives of the resident.

161
162 The facility shall ~~must~~ allow representatives of the State Long-
163 Term Care Ombudsman Program to examine a resident's clinical
164 records with the permission of the resident or the resident's
165 legal representative and consistent with state law.

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

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

172 406.50 Unclaimed remains; disposition, procedure.—

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

177 (a) The unclaimed remains are decomposed or mutilated by

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178 wounds;

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

180 (c) The remains contain a contagious disease;

181 (d) A legally authorized person, including a domestic

182 partner, objects to use of the remains for medical education or

183 research; or

184 (e) The deceased person was a veteran of the United States

185 Armed Forces, United States Reserve Forces, or National Guard

186 and is eligible for burial in a national cemetery or was the

187 spouse or dependent child of a veteran eligible for burial in a

188 national cemetery.

189 (2) Before the final disposition of unclaimed remains, the

190 person or entity in charge or control of the remains shall make

191 a reasonable effort to:

192 (a) Determine the identity of the deceased person and

193 contact any relatives, including a domestic partner, of the

194 deceased person.

195 (b) Determine whether the deceased person is eligible under

196 38 C.F.R. s. 38.620 for burial in a national cemetery as a

197 veteran of the United States Armed Forces and, if eligible, to

198 cause the deceased person's remains or cremated remains to be

199 delivered to a national cemetery.

200

201 For purposes of this subsection, "a reasonable effort" includes

202 contacting the National Cemetery Scheduling Office, the county

203 veterans service office, or the regional office of the United

204 States Department of Veterans Affairs.

205 (3) Unclaimed remains shall be delivered to the anatomical

206 board as soon as possible after death. If a relative or a

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207 domestic partner does not exist ~~When no family exists~~ or is not
208 available, a funeral director licensed under chapter 497 may
209 assume the responsibility of a legally authorized person and
210 may, ~~after 24 hours~~ or more after ~~have elapsed since~~ the time of
211 death, authorize arterial embalming for the purposes of storage
212 and delivery of unclaimed remains to the anatomical board. A
213 funeral director licensed under chapter 497 is not liable for
214 damages under this subsection.

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

217 408.051 Florida Electronic Health Records Exchange Act.—

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

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

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

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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 HOMEMAKER TRUST FUND.—

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

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

267 497.005 Definitions.—As used in this chapter, the term:

268 (39) “Legally authorized person” means, in the priority
269 listed:

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

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

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

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

285 (e) A parent;

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

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

288 (h) A grandparent; or

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

290

291 In addition, the term may include, if there are no existing or
292 available ~~no~~ family members, including a domestic partner member
293 ~~exists or is available~~, the guardian of the dead person at the

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

310 Section 11. Paragraph (e) of subsection (8) of section
311 497.152, Florida Statutes, is amended to read:

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

321 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF HUMAN
322 REMAINS.—

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

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

330 741.01 County court judge or clerk of the circuit court to
331 issue marriage license; fee.-

332 (2) The fee charged for each marriage license issued in the
333 state shall be increased by the sum of \$25. This fee shall be
334 collected upon receipt of the application for the issuance of a
335 marriage license and remitted by the clerk to the Department of
336 Revenue for deposit in the Domestic Violence Trust Fund. The
337 Executive Office of the Governor shall establish a Domestic
338 Violence Trust Fund for the purpose of collecting and disbursing
339 funds generated from the increase in the marriage license fee
340 and from the fee charged for each Declaration of Domestic
341 Partnership as specified in s. 741.507. Such funds ~~which are~~
342 generated shall be appropriated in a "grants-in-aid" category to
343 the Department of Children and Families ~~directed to the~~
344 ~~Department of Children and Families~~ for the specific purpose of
345 funding domestic violence centers, ~~and the funds shall be~~
346 ~~appropriated in a "grants-in-aid" category to the Department of~~
347 ~~Children and Families for the purpose of funding domestic~~
348 ~~violence centers.~~ From the proceeds of the surcharge deposited
349 into the Domestic Violence Trust Fund as required under s.
350 938.08, the Executive Office of the Governor may spend up to
351 \$500,000 each year for the purpose of administering a statewide

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352 public-awareness campaign regarding domestic violence.

353 Section 13. Section 741.501, Florida Statutes, is created
354 to read:

355 741.501 Legislative findings.—The Legislature finds that:

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

363 (2) This law does not alter, affect, or contravene any
364 municipal, county, state, or federal law that defines marriage
365 and may not be interpreted as recognizing or treating a domestic
366 partnership as a marriage.

367 (3) Because of the material and other support that domestic
368 partnerships provide to their participants, these relationships
369 should be formally recognized and made uniform by law.

370 Recognition of domestic partnerships will also promote employee
371 recruitment, employee retention, employee loyalty for employers
372 within this state, and economic development by attracting to
373 this state companies that value diversity and protections for
374 their employees. Therefore, the Legislature declares that it is
375 the policy of this state to establish and define the rights and
376 responsibilities of domestic partners.

377 Section 14. Section 741.502, Florida Statutes, is created
378 to read:

379 741.502 Definitions.—As used in ss. 741.501-741.510, the
380 term:

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

384 (2) "Domestic partner" means a person who enters into a
385 domestic partnership.

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

388 (4) "Health care facility" means a facility licensed under
389 chapter 395, chapter 400, or chapter 429 or defined in s.
390 394.455.

391 (5) "Mutual residence" means a residence that is shared,
392 regardless of whether the individuals involved in a domestic
393 partnership have an individual or joint legal right of
394 possession to the property and regardless of whether either
395 resident also resides in another dwelling.

396 Section 15. Section 741.503, Florida Statutes, is created
397 to read:

398 741.503 Forms.—The Department of Health shall prepare and
399 adopt the following forms:

400 (1) Declaration of Domestic Partnership.

401 (2) Certificate of Domestic Partnership.

402 (3) Notice of Termination of Domestic Partnership.

403 (4) Certificate of Termination of Domestic Partnership.

404 Section 16. Section 741.504, Florida Statutes, is created
405 to read:

406 741.504 Domestic partnership requirements.—

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

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

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

416 (c) A statement attesting that the parties share a mutual
417 residence.

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

420 (e) A mailing address for each party.

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

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

429 (3) If the Declaration of Domestic Partnership satisfies
430 the requirements of this section, the clerk of the circuit court
431 shall:

432 (a) Record the Declaration of Domestic Partnership in the
433 official records.

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

436 Section 17. Section 741.505, Florida Statutes, is created
437 to read:

438 741.505 Prohibitions to forming a domestic partnership.—A

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439 domestic partnership is prohibited if:

440 (1) Either party is married to a different person.

441 (2) Either party is a party to a domestic partnership with
442 a different domestic partner and such domestic partnership is
443 recognized by this state.

444 (3) The parties are related by lineal consanguinity or are
445 siblings or if one party is the niece or nephew of the other
446 party.

447 (4) Either party is incapable of making the civil contract
448 or of consenting to the contract for want of legal age or
449 sufficient understanding.

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

452 Section 18. Section 741.506, Florida Statutes, is created
453 to read:

454 741.506 Domestic partnership; rights; enforcement.—

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

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

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

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

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

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

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

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

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

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

481 Section 19. Section 741.507, Florida Statutes, is created
482 to read:

483 741.507 Fees.—

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

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

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

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

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

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

495 (2) An applicant for a Certificate of Domestic Partnership
496 who cannot pay the fees required under subsection (1) in a lump

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497 sum may make payments in not more than three installments over a
498 period of 90 days. The clerk shall accept installment payments
499 upon receipt of an affidavit that the applicant cannot pay the
500 fees in a lump-sum payment. Upon receipt of the third or final
501 installment payment, the Declaration of Domestic Partnership
502 shall be deemed filed, and the clerk shall issue the Certificate
503 of Domestic Partnership and distribute the fees as provided in
504 subsection (1). If the fees are paid in installments, the clerk
505 must retain \$1 from the fee imposed pursuant to paragraph (1) (b)
506 as a processing fee.

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

510 Section 20. Section 741.508, Florida Statutes, is created
511 to read:

512 741.508 Proof of domestic partnership if certificate is not
513 available.—

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

519 (2) The clerk of the circuit court of the county in which
520 the Declaration of Domestic Partnership originally was executed
521 shall file and record the affidavit and shall issue a new
522 certificate, which has the same force and effect as the
523 original.

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

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

528 (b) The certificate is lost; or

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

531 Section 21. Section 741.509, Florida Statutes, is created
532 to read:

533 741.509 Termination of partnership.—

534 (1) A party to a domestic partnership may terminate the
535 partnership by filing a Notice of Termination of Domestic
536 Partnership with the clerk of the circuit court and by paying
537 the filing fee established under s. 741.507. The notice must be
538 signed by at least one of the parties and notarized. If the
539 notice is not signed by both parties, the party who seeks
540 termination must also file with the clerk an affidavit stating
541 that:

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

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

549 (2) The domestic partnership is terminated effective 90
550 days after the date of filing the notice of termination and
551 payment of the filing fee.

552 (3) Upon receipt of a signed, notarized notice of
553 termination, affidavit, if required, and filing fee, the clerk
554 of the circuit court shall file the notice of termination and

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555 issue a Certificate of Termination of Domestic Partnership to
556 each party in person or at the mailing address provided on the
557 notice.

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

560 (a) Either party or both parties enter into a marriage that
561 is recognized as valid in this state, either with each other or
562 with another party; or

563 (b) One party dies, except that the death of a domestic
564 partner does not extinguish the surviving domestic partner's
565 rights with respect to the medical record of, or information
566 relating to, the decedent and with respect to the disposition of
567 the decedent's body and the decedent's funeral arrangements.

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

572 Section 22. Section 741.510, Florida Statutes, is created
573 to read:

574 741.510 Preemption.—Sections 741.501-741.509 do not preempt
575 the authority of a county or municipality to enact a domestic
576 partnership ordinance that is not in conflict with these
577 sections.

578 Section 23. Section 765.105, Florida Statutes, is amended
579 to read:

580 765.105 Review of surrogate or proxy's decision.—

581 (1) The patient's family, including the patient's domestic
582 partner, the health care facility, or the primary physician, or
583 any other interested person who may reasonably be expected to be

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584 directly affected by the surrogate or proxy's decision
585 concerning any health care decision may seek expedited judicial
586 intervention pursuant to rule 5.900 of the Florida Probate
587 Rules, if that person believes:

588 (a) The surrogate or proxy's decision is not in accord with
589 the patient's known desires or this chapter;

590 (b) The advance directive is ambiguous, or the patient has
591 changed his or her mind after execution of the advance
592 directive;

593 (c) The surrogate or proxy was improperly designated or
594 appointed, or the designation of the surrogate is no longer
595 effective or has been revoked;

596 (d) The surrogate or proxy has failed to discharge duties,
597 or incapacity or illness renders the surrogate or proxy
598 incapable of discharging duties;

599 (e) The surrogate or proxy has abused his or her powers; or

600 (f) The patient has sufficient capacity to make his or her
601 own health care decisions.

602 (2) This section does not apply to a patient who is not
603 incapacitated and who has designated a surrogate who has
604 immediate authority to make health care decisions or receive
605 health information, or both, on behalf of the patient.

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

608 765.401 The proxy.—

609 (1) If an incapacitated or developmentally disabled patient
610 has not executed an advance directive, or designated a surrogate
611 to execute an advance directive, or the designated or alternate
612 surrogate is no longer available to make health care decisions,

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613 health care decisions may be made for the patient by any of the
614 following individuals, in the following order of priority, if no
615 individual in a prior class is reasonably available, willing, or
616 competent to act:

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

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

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

628 (d) A parent of the patient;

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

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

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

637 (h) A clinical social worker licensed under ~~pursuant to~~
638 chapter 491, or who is a graduate of a court-approved
639 guardianship program. ~~Such a proxy must be selected by~~ The
640 provider's bioethics committee shall select such a proxy, who
641 may and must not be employed by the provider. If the provider

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642 does not have a bioethics committee, ~~then~~ such a proxy may be
643 chosen through an arrangement with the bioethics committee of
644 another provider. The proxy will be notified that, upon request,
645 the provider shall make available a second physician, not
646 involved in the patient's care to assist the proxy in evaluating
647 treatment. Decisions to withhold or withdraw life-prolonging
648 procedures will be reviewed by the facility's bioethics
649 committee. Documentation of efforts to locate proxies from prior
650 classes must be recorded in the patient record.

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

653 765.512 Persons who may make an anatomical gift.—

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

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

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

667 (3) If the decedent has not made an anatomical gift or
668 designated a health surrogate, a member of one of the classes of
669 persons listed in this subsection ~~below~~, in the order of
670 priority listed and in the absence of actual notice of contrary

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671 indications by the decedent or actual notice of opposition by a
672 member of a prior class, may give all or any part of the
673 decedent's body for any purpose specified in s. 765.513:

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

690
691 Those of higher priority who are reasonably available must be
692 contacted and made aware of the proposed gift and a reasonable
693 search must be conducted which shows that there would have been
694 no objection to the gift by the decedent.

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

697 765.517 Rights and duties at death.—

698 (1) The donee, pursuant to s. 765.515(2), may accept or
699 reject an anatomical gift. If the donee accepts a gift to be

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700 used for research or education purposes, the donee may authorize
701 embalming and the use of the body in funeral services, subject
702 to the terms of the gift. If the gift is of a part of the body,
703 the donee shall cause the part to be removed without unnecessary
704 mutilation upon the death of the donor and before or after
705 embalming. After removal of the body part, custody of the
706 remainder of the body vests in the surviving spouse, domestic
707 partner, next of kin, or other persons under obligation to
708 dispose of the body.

709 Section 27. Subsection (1) of section 768.18, Florida
710 Statutes, is amended to read:

711 768.18 Definitions.—As used in ss. 768.16–768.26:

712 (1) "Survivors" means the decedent's spouse, domestic
713 partner, children, parents, and, when partly or wholly dependent
714 on the decedent for support or services, any blood relatives and
715 adoptive brothers and sisters. It includes the child born out of
716 wedlock of a mother, but not the child born out of wedlock of
717 the father or domestic partner unless the father or domestic
718 partner has recognized a responsibility for the child's support.

719 Section 28. 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 ~~an~~ 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 29. This act shall take effect July 1, 2016.