

1 A bill to be entitled

2 An act relating to the Florida Families Act; providing
3 a short title; amending s. 28.24, F.S.; authorizing
4 the clerk of the circuit court to collect a filing fee
5 for domestic partner registrations; amending s.
6 382.009, F.S.; requiring notification of a patient's
7 domestic partner in the event of the brain death of
8 the patient; amending s. 394.459, F.S.; providing
9 access to a mental health patient by his or her
10 domestic partner; amending s. 400.022, F.S.; requiring
11 that nursing homes allow a domestic partner access to
12 his or her partner who is a resident and requiring
13 that the domestic partner be allowed to meet with the
14 families of other residents; amending s. 406.50, F.S.;
15 requiring notification of a decedent's domestic
16 partner before the decedent's body can be used for
17 medical education or research; amending s. 408.051,
18 F.S.; adding "domestic partner" to the definition of
19 the term "patient representative"; amending s. 429.28,
20 F.S.; requiring that assisted living facilities allow
21 domestic partners to share a room; amending s. 429.85,
22 F.S.; requiring that adult family-care homes allow
23 domestic partners to share a room; amending s. 446.50,
24 F.S.; providing a cross-reference; amending s.
25 497.005, F.S.; adding domestic partner to the
26 individuals regarded as legally authorized persons for

27 | purposes of making funeral arrangements of a deceased;
28 | amending s. 497.152, F.S.; prohibiting the disposition
29 | or disinterment of a decedent's body without written
30 | authorization from his or her surviving domestic
31 | partner; amending s. 741.01, F.S.; directing the
32 | Executive Office of the Governor to establish a
33 | Domestic Violence Trust Fund for the purpose of
34 | collecting and disbursing funds generated from the
35 | Declaration of Domestic Partnership fee; creating s.
36 | 741.501, F.S.; providing legislative findings;
37 | creating s. 741.502, F.S.; providing definitions;
38 | creating s. 741.503, F.S.; requiring the Department of
39 | State to adopt forms; creating s. 741.504, F.S.;
40 | establishing requirements for domestic partnership;
41 | providing criminal penalties for providing false
42 | information; requiring transmission of certain
43 | domestic partnership certifications to the Department
44 | of State; creating s. 741.505, F.S.; specifying
45 | prohibitions to forming domestic partnerships under
46 | certain circumstances; creating s. 741.506, F.S.;
47 | identifying rights afforded to domestic partners;
48 | providing for enforcement of such rights; creating s.
49 | 741.507, F.S.; providing fees for establishing and
50 | terminating a domestic partnership; creating s.
51 | 741.508, F.S.; providing methods to prove the
52 | existence of a domestic partnership under certain

53 | circumstances; creating s. 741.509, F.S.; providing
54 | for termination of a domestic partnership; creating s.
55 | 741.510, F.S.; providing that the act does not preempt
56 | the authority of a county or municipality to enact a
57 | domestic partnership ordinance unless in conflict with
58 | the act; amending s. 765.105, F.S.; including a
59 | patient's domestic partner as one of several specified
60 | persons who may seek judicial intervention to question
61 | the patient's health care decision; amending s.
62 | 765.401, F.S.; adding a domestic partner to the list
63 | of individuals who may serve as a health care proxy;
64 | amending s. 765.512, F.S.; providing that a domestic
65 | partner may make an anatomical gift on behalf of the
66 | decedent; amending s. 765.517, F.S.; adding a domestic
67 | partner to the list of people who may receive
68 | remainder of body parts after an anatomical gift;
69 | amending s. 872.04, F.S.; requiring written
70 | authorization of a domestic partner to perform an
71 | autopsy on his or her deceased partner if no health
72 | care surrogate has been designated; providing an
73 | effective date.

74 |
75 | Be It Enacted by the Legislature of the State of Florida:

76 |
77 | Section 1. This act may be cited as the "Florida Families
78 | Act."

79 Section 2. Subsection (29) is added to section 28.24,
80 Florida Statutes, to read:

81 28.24 Service charges.—The clerk of the circuit court
82 shall charge for services rendered manually or electronically by
83 the clerk's office in recording documents and instruments and in
84 performing other specified duties. These charges may not exceed
85 those specified in this section, except as provided in s.
86 28.345.

87
88 Charges

89
90 (29) Upon receipt of a Declaration of Domestic
91 Partnership, for preparing and administering of oath, and filing
92 and providing a certified copy of the domestic partnership. . .
93 \$30.00.

94 Section 3. Subsection (3) of section 382.009, Florida
95 Statutes, is amended to read:

96 382.009 Recognition of brain death under certain
97 circumstances.—

98 (3) The next of kin of the patient or domestic partner
99 shall be notified as soon as practicable of the procedures to
100 determine death under this section. The medical records shall
101 reflect such notice; if such notice has not been given, the
102 medical records shall reflect the attempts to identify and
103 notify the next of kin.

104 Section 4. Paragraph (c) of subsection (5) of section

105 394.459, Florida Statutes, is amended to read:

106 394.459 Rights of patients.—

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

108 (c) Each facility must permit immediate access to any
 109 patient, subject to the patient's right to deny or withdraw
 110 consent at any time, by the patient's family members, a
 111 patient's domestic partner, guardian, guardian advocate,
 112 representative, Florida statewide or local advocacy council, or
 113 attorney, unless such access would be detrimental to the
 114 patient. If a patient's right to communicate or to receive
 115 visitors is restricted by the facility, written notice of such
 116 restriction and the reasons for the restriction shall be served
 117 on the patient, the patient's attorney, and the patient's
 118 guardian, guardian advocate, or representative; and such
 119 restriction shall be recorded on the patient's clinical record
 120 with the reasons therefor. The restriction of a patient's right
 121 to communicate or to receive visitors shall be reviewed at least
 122 every 7 days. The right to communicate or receive visitors shall
 123 not be restricted as a means of punishment. Nothing in this
 124 paragraph shall be construed to limit the provisions of
 125 paragraph (d).

126 Section 5. Paragraphs (c) and (e) of subsection (1) of
 127 section 400.022, Florida Statutes, are amended to read:

128 400.022 Residents' rights.—

129 (1) All licensees of nursing home facilities shall adopt
 130 and make public a statement of the rights and responsibilities

131 of the residents of such facilities and shall treat such
132 residents in accordance with the provisions of that statement.
133 The statement shall assure each resident the following:

134 (c) Any entity or individual that provides health, social,
135 legal, or other services to a resident has the right to have
136 reasonable access to the resident. The resident has the right to
137 deny or withdraw consent to access at any time by any entity or
138 individual. Notwithstanding the visiting policy of the facility,
139 the following individuals must be permitted immediate access to
140 the resident:

141 1. Any representative of the federal or state government,
142 including, but not limited to, representatives of the Department
143 of Children and Family Services, the Department of Health, the
144 Agency for Health Care Administration, the Office of the
145 Attorney General, and the Department of Elderly Affairs; any law
146 enforcement officer; members of the state or local ombudsman
147 council; and the resident's individual physician.

148 2. Subject to the resident's right to deny or withdraw
149 consent, immediate family, the resident's domestic partner, or
150 other relatives of the resident.

151
152 The facility must allow representatives of the State Long-Term
153 Care Ombudsman Council to examine a resident's clinical records
154 with the permission of the resident or the resident's legal
155 representative and consistent with state law.

156 (e) The right to organize and participate in resident

157 groups in the facility and the right to have the resident's
158 family, including the resident's domestic partner, meet in the
159 facility with the families of other residents.

160 Section 6. Paragraph (a) of subsection (2) and subsection
161 (3) of section 406.50, Florida Statutes, are amended to read:

162 406.50 Unclaimed remains; disposition, procedure.—

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

166 (a) Determine the identity of the deceased person and
167 contact any relatives of the deceased person, including a
168 domestic partner.

169

170 For purposes of this subsection, "a reasonable effort" includes
171 contacting the National Cemetery Scheduling Office, the county
172 veterans service office, or the regional office of the United
173 States Department of Veterans Affairs.

174 (3) Unclaimed remains shall be delivered to the anatomical
175 board as soon as possible after death. When no family, including
176 a domestic partner, exists or is available, a funeral director
177 licensed under chapter 497 may assume the responsibility of a
178 legally authorized person and may, after 24 hours have elapsed
179 since the time of death, authorize arterial embalming for the
180 purposes of storage and delivery of unclaimed remains to the
181 anatomical board. A funeral director licensed under chapter 497
182 is not liable for damages under this subsection.

183 Section 7. Paragraph (g) of subsection (2) of section
 184 408.051, Florida Statutes, is amended to read:

185 408.051 Florida Electronic Health Records Exchange Act.—

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

187 (g) "Patient representative" means a parent of a minor
 188 patient, a court-appointed guardian for the patient, a health
 189 care surrogate, or a person holding a power of attorney or
 190 notarized consent appropriately executed by the patient granting
 191 permission to a health care facility or health care provider to
 192 disclose the patient's health care information to that person.
 193 In the case of a deceased patient, the term also means the
 194 personal representative of the estate of the deceased patient;
 195 the deceased patient's surviving spouse, surviving domestic
 196 partner, surviving parent, or surviving adult child; the parent
 197 or guardian of a surviving minor child of the deceased patient;
 198 the attorney for the patient's surviving spouse, domestic
 199 partner, parent, or adult child; or the attorney for the parent
 200 or guardian of a surviving minor child.

201 Section 8. Paragraph (g) of subsection (1) of section
 202 429.28, Florida Statutes, is amended to read:

203 429.28 Resident bill of rights.—

204 (1) No resident of a facility shall be deprived of any
 205 civil or legal rights, benefits, or privileges guaranteed by
 206 law, the Constitution of the State of Florida, or the
 207 Constitution of the United States as a resident of a facility.
 208 Every resident of a facility shall have the right to:

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

211 Section 9. Paragraph (g) of subsection (1) of section
 212 429.85, Florida Statutes, is amended to read:

213 429.85 Residents' bill of rights.—

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

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

221 Section 10. Paragraph (b) of subsection (5) of section
 222 446.50, Florida Statutes, is amended to read:

223 446.50 Displaced homemakers; multiservice programs; report
 224 to the Legislature; Displaced Homemaker Trust Fund created.—

225 (5) DISPLACED HOME MAKER TRUST FUND.—

226 (b) The trust fund shall receive funds generated from an
 227 additional fee on marriage license applications, declarations of
 228 domestic partnership, and dissolution of marriage filings as
 229 specified in ss. 741.01(3), 741.507, and 28.101, respectively,
 230 and may receive funds from any other public or private source.

231 Section 11. Subsection (39) of section 497.005, Florida
 232 Statutes, is amended to read:

233 497.005 Definitions.—As used in this chapter, the term:

234 (39) "Legally authorized person" means, in the priority

235 listed:

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

238 (b) The person designated by the decedent as authorized to
239 direct disposition pursuant to Pub. L. No. 109-163, s. 564, as
240 listed on the decedent's United States Department of Defense
241 Record of Emergency Data, DD Form 93, or its successor form, if
242 the decedent died while serving military service as described in
243 10 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States
244 Armed Forces, United States Reserve Forces, or National Guard;

245 (c) The surviving spouse or domestic partner, unless the
246 spouse or domestic partner has been arrested for committing
247 against the deceased an act of domestic violence as defined in
248 s. 741.28 that resulted in or contributed to the death of the
249 deceased;

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

251 (e) A parent;

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

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

254 (h) A grandparent; or

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

256

257 In addition, the term may include, if no family member exists or
258 is available, the guardian of the dead person at the time of
259 death; the personal representative of the deceased; the attorney
260 in fact of the dead person at the time of death; the health

261 surrogate of the dead person at the time of death; a public
 262 health officer; the medical examiner, county commission, or
 263 administrator acting under part II of chapter 406 or other
 264 public administrator; a representative of a nursing home or
 265 other health care institution in charge of final disposition; or
 266 a friend or other person not listed in this subsection who is
 267 willing to assume the responsibility as the legally authorized
 268 person. Where there is a person in any priority class listed in
 269 this subsection, the funeral establishment shall rely upon the
 270 authorization of any one legally authorized person of that class
 271 if that person represents that she or he is not aware of any
 272 objection to the cremation of the deceased's human remains by
 273 others in the same class of the person making the representation
 274 or of any person in a higher priority class.

275 Section 12. Paragraph (e) of subsection (8) of section
 276 497.152, Florida Statutes, is amended to read:

277 497.152 Disciplinary grounds.—This section sets forth
 278 conduct that is prohibited and that shall constitute grounds for
 279 denial of any application, imposition of discipline, or other
 280 enforcement action against the licensee or other person
 281 committing such conduct. For purposes of this section, the
 282 requirements of this chapter include the requirements of rules
 283 adopted under authority of this chapter. No subsection heading
 284 in this section shall be interpreted as limiting the
 285 applicability of any paragraph within the subsection.

286 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF

287 HUMAN REMAINS.—

288 (e) Failing to obtain written authorization from the
289 family, including the domestic partner, or next of kin of the
290 deceased prior to entombment, interment, disinterment,
291 disentombment, or disinurnment of the remains of any human
292 being.

293 Section 13. Subsection (2) of section 741.01, Florida
294 Statutes, is amended to read:

295 741.01 County court judge or clerk of the circuit court to
296 issue marriage license; fee.—

297 (2) The fee charged for each marriage license issued in
298 the state shall be increased by the sum of \$25. This fee shall
299 be collected upon receipt of the application for the issuance of
300 a marriage license and remitted by the clerk to the Department
301 of Revenue for deposit in the Domestic Violence Trust Fund. The
302 Executive Office of the Governor shall establish a Domestic
303 Violence Trust Fund for the purpose of collecting and disbursing
304 funds generated from the increase in the marriage license fee
305 and the Declaration of Domestic Partnership fee collected
306 pursuant to s. 741.507. Such funds which are generated shall be
307 directed to the Department of Children and Family Services for
308 the specific purpose of funding domestic violence centers, and
309 the funds shall be appropriated in a "grants-in-aid" category to
310 the Department of Children and Family Services for the purpose
311 of funding domestic violence centers. From the proceeds of the
312 surcharge deposited into the Domestic Violence Trust Fund as

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

317 Section 14. Section 741.501, Florida Statutes, is created
318 to read:

319 741.501 Legislative findings.—The Legislature finds that:

320 (1) Marriage in this state is defined by s. 27, Art. I of
321 the State Constitution as the union of one man and one woman,
322 and the Legislature does not seek to alter this definition in
323 any way.

324 (2) There is a significant number of individuals in this
325 state who live together in important and personally,
326 emotionally, and economically committed relationships who are
327 not married under state law. These familial relationships have
328 been generally referred to as domestic partnerships in local
329 jurisdictions that have enacted laws applying to such
330 arrangements. Recognition of domestic partnerships provides the
331 state with a valuable legal mechanism to confer certain legally-
332 appropriate rights and responsibilities to individuals who
333 choose to form long-term, mutually supportive relationships.
334 Such recognition will provide support to these familial
335 relationships without affecting the definition of marriage, and
336 without creating or recognizing a legal relationship that is the
337 substantial equivalent of marriage. This law does not alter,
338 affect, or contravene any municipal, county, or state law that

339 defines marriage, nor shall it be interpreted as recognizing or
340 treating a domestic partnership as a marriage.

341 (3) The state has a strong interest in promoting stable
342 and lasting families and believes that all familial
343 relationships, including domestic partnerships, should be
344 provided with important legal protections to make them more
345 secure in their persons and property.

346 (4) Because of the material and other support that
347 domestic partnerships provide to their participants, these
348 relationships should be formally recognized and made uniform by
349 law. Recognition of these relationships will also promote
350 economic development by attracting companies to this state that
351 value diversity and protections for their employees, and allow
352 companies that already hire in this state to recruit, retain,
353 and provide a better standard of living to hard-working
354 Floridians. Therefore, the Legislature declares that it is the
355 policy of this state to establish and define the rights and
356 responsibilities of domestic partners.

357 Section 15. Section 741.502, Florida Statutes, is created
358 to read:

359 741.502 Definitions.—As used in ss. 741.501-741.510, the
360 term:

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

364 (2) "Domestic partner" means a person who enters into a

365 domestic partnership.

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

368 (4) "Health care facility" means a facility licensed under
369 chapter 395, chapter 400, or chapter 429 or defined in s.
370 394.455.

371 (5) "Mutual residence" means a residence that is shared,
372 without the necessity that the legal right to possess the
373 property be in the name of both residents and regardless of
374 whether either resident also resides in another dwelling.

375 Section 16. Section 741.503, Florida Statutes, is created
376 to read:

377 741.503 Forms.—The Department of State shall prepare and
378 adopt the following forms:

379 (1) Declaration of Domestic Partnership.

380 (2) Certificate of Domestic Partnership.

381 (3) Notice of Termination of Domestic Partnership.

382 (4) Certificate of Termination of Domestic Partnership.

383 Section 17. Section 741.504, Florida Statutes, is created
384 to read:

385 741.504 Domestic partnership requirements.—

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

389 (a) A statement attesting that each party is 18 years of
390 age or older. The clerk may accept any reasonable proof of an

391 individual's age, but the clerk must accept a driver license or
 392 passport.

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

395 (c) A statement attesting that both parties share a mutual
 396 residence.

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

399 (e) A mailing address for each party.

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

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

408 (3) If the Declaration of Domestic Partnership satisfies
 409 the requirements of this section, the clerk of the circuit court
 410 shall:

411 (a) Record the Declaration of Domestic Partnership in the
 412 official records.

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

415 (4) On or before the 5th day of each month, the clerk of
 416 the circuit court shall transmit all original Certificates of

417 Domestic Partnership and Certificates of Termination of Domestic
 418 Partnership issued during the preceding calendar month to the
 419 Department of State.

420 Section 18. Section 741.505, Florida Statutes, is created
 421 to read:

422 741.505 Prohibitions to forming a domestic partnership.—A
 423 domestic partnership is prohibited if:

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

426 (2) Either party is a party to a domestic partnership with
 427 a different domestic partner, unless the domestic partnership
 428 has been legally terminated.

429 (3) The parties are related by lineal consanguinity or are
 430 siblings, or if one party is the niece or nephew of the other
 431 party.

432 (4) Either party is incapable of making the civil contract
 433 or consenting to the contract for want of legal age or
 434 sufficient understanding.

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

437 Section 19. Section 741.506, Florida Statutes, is created
 438 to read:

439 741.506 Domestic partnership; rights; enforcement.—

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

442 (2) A correctional institution shall grant a domestic

443 partner the same visitation privileges it grants a spouse.

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

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

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

453 (6) A decedent's domestic partner has the authority to act
 454 as the patient's representative and to direct the disposition of
 455 the decedent's body as provided in chapters 382, 406, 408, 497,
 456 765, and 872.

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

461 Section 20. Section 741.507, Florida Statutes, is created
 462 to read:

463 741.507 Fees.—

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

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

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

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

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

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

476 (2) An applicant for a Certificate of Domestic Partnership
477 who cannot pay the fees required under subsection (1) in a lump
478 sum may make payment in not more than three installments over a
479 period of 90 days. The clerk shall accept installment payments
480 upon receipt of an affidavit that the applicant cannot pay the
481 fees in a lump-sum payment. Upon receipt of the third or final
482 installment payment, the Declaration of Domestic Partnership
483 shall be deemed filed, and the clerk shall issue the Certificate
484 of Domestic Partnership and distribute the fees as provided in
485 subsection (1). If the fees are paid in installments, the clerk
486 shall retain \$1 from the fee imposed pursuant to paragraph
487 (1) (b) as a processing fee.

488 (3) Upon receipt of a Notice of Termination of Domestic
489 Partnership, the clerk of the circuit court shall collect and
490 receive a fee of \$10 from the party filing for termination.

491 Section 21. Section 741.508, Florida Statutes, is created
492 to read:

493 741.508 Proof of domestic partnership if certificate is
494 not available.—

495 (1) If the Certificate of Domestic Partnership is not
 496 available, the domestic partnership may be proved by an
 497 affidavit before an officer authorized to administer oaths,
 498 which is made by two competent witnesses who are present and see
 499 the Declaration of Domestic Partnership executed.

500 (2) The clerk of the circuit court of the county in which
 501 the Declaration of Domestic Partnership originally was executed
 502 shall file and record the affidavit and shall issue a new
 503 certificate, which has the same force and effect as the
 504 original.

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

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

509 (b) The certificate is lost; or

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

512 Section 22. Section 741.509, Florida Statutes, is created
 513 to read:

514 741.509 Termination of partnership.—

515 (1) A party to a domestic partnership may terminate the
 516 partnership by filing a Notice of Termination of Domestic
 517 Partnership with the clerk of the circuit court and by paying
 518 the filing fee established under s. 741.507. The notice must be
 519 signed by at least one of the parties and notarized. If the
 520 notice is not signed by both parties, the party who seeks

521 termination must also file with the clerk an affidavit stating
522 that:

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

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

531 (2) The domestic partnership is terminated effective 90
532 days after the date of filing the notice of termination and
533 payment of the filing fee.

534 (3) Upon receipt of a signed, notarized notice of
535 termination, affidavit, if required, and filing fee, the clerk
536 of the circuit court shall file the notice of termination and
537 issue a Certificate of Termination of Domestic Partnership to
538 each party in person or at the mailing address provided on the
539 notice.

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

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

545 (b) One party dies, except that the death of a domestic
546 partner does not extinguish the surviving domestic partner's

547 rights with respect to the medical record of, or information
548 relating to, the decedent and with respect to the disposition of
549 the decedent's body and the decedent's funeral arrangements.

550 (5) If a domestic partnership is automatically terminated,
551 at least one party must file a notice of termination with the
552 clerk of the circuit court within 30 days of the event causing
553 the automatic termination.

554 Section 23. Section 741.510, Florida Statutes, is created
555 to read:

556 741.510 Preemption.—This act does not preempt the
557 authority of a county or municipality to enact a domestic
558 partnership ordinance that is not in conflict with this act.

559 Section 24. Section 765.105, Florida Statutes, is amended
560 to read:

561 765.105 Review of surrogate or proxy's decision.—The
562 patient's family, a domestic partner, the health care facility,
563 or the attending physician, or any other interested person who
564 may reasonably be expected to be directly affected by the
565 surrogate or proxy's decision concerning any health care
566 decision may seek expedited judicial intervention pursuant to
567 rule 5.900 of the Florida Probate Rules, if that person
568 believes:

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

572 (2) The advance directive is ambiguous, or the patient has

573 | changed his or her mind after execution of the advance
 574 | directive;

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

578 | (4) The surrogate or proxy has failed to discharge duties,
 579 | or incapacity or illness renders the surrogate or proxy
 580 | incapable of discharging duties;

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

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

584 | Section 25. Subsection (1) of section 765.401, Florida
 585 | Statutes, is amended to read:

586 | 765.401 The proxy.—

587 | (1) If an incapacitated or developmentally disabled
 588 | patient has not executed an advance directive, or designated a
 589 | surrogate to execute an advance directive, or the designated or
 590 | alternate surrogate is no longer available to make health care
 591 | decisions, health care decisions may be made for the patient by
 592 | any of the following individuals, in the following order of
 593 | priority, if no individual in a prior class is reasonably
 594 | available, willing, or competent to act:

595 | (a) The judicially appointed guardian of the patient or
 596 | the guardian advocate of the person having a developmental
 597 | disability as defined in s. 393.063, who has been authorized to
 598 | consent to medical treatment, if such guardian has previously

599 | been appointed; however, this paragraph shall not be construed
600 | to require such appointment before a treatment decision can be
601 | made under this subsection;

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

603 | (c) An adult child of the patient, or if the patient has
604 | more than one adult child, a majority of the adult children who
605 | are reasonably available for consultation;

606 | (d) A parent of the patient;

607 | (e) The adult sibling of the patient or, if the patient
608 | has more than one sibling, a majority of the adult siblings who
609 | are reasonably available for consultation;

610 | (f) An adult relative of the patient who has exhibited
611 | special care and concern for the patient and who has maintained
612 | regular contact with the patient and who is familiar with the
613 | patient's activities, health, and religious or moral beliefs; ~~or~~

614 | (g) A close friend of the patient; or—

615 | (h) A clinical social worker licensed pursuant to chapter
616 | 491, or who is a graduate of a court-approved guardianship
617 | program. Such a proxy must be selected by the provider's
618 | bioethics committee and must not be employed by the provider. If
619 | the provider does not have a bioethics committee, then such a
620 | proxy may be chosen through an arrangement with the bioethics
621 | committee of another provider. The proxy will be notified that,
622 | upon request, the provider shall make available a second
623 | physician, not involved in the patient's care to assist the
624 | proxy in evaluating treatment. Decisions to withhold or withdraw

625 life-prolonging procedures will be reviewed by the facility's
626 bioethics committee. Documentation of efforts to locate proxies
627 from prior classes must be recorded in the patient record.

628 Section 26. Subsections (1) and (3) of section 765.512,
629 Florida Statutes, are amended to read:

630 765.512 Persons who may make an anatomical gift.—

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

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

638 (b) An anatomical gift made by a qualified donor and not
639 revoked by the donor, as provided in s. 765.516, is irrevocable
640 after the donor's death. A family member, domestic partner,
641 guardian, representative ad litem, or health care surrogate may
642 not modify, deny, or prevent a donor's wish or intent to make an
643 anatomical gift after the donor's death.

644 (3) If the decedent has not made an anatomical gift or
645 designated a health surrogate, a member of one of the classes of
646 persons listed below, in the order of priority listed and in the
647 absence of actual notice of contrary indications by the decedent
648 or actual notice of opposition by a member of a prior class, may
649 give all or any part of the decedent's body for any purpose
650 specified in s. 765.513:

- 651 (a) The spouse or domestic partner of the decedent;
- 652 (b) An adult son or daughter of the decedent;
- 653 (c) Either parent of the decedent;
- 654 (d) An adult brother or sister of the decedent;
- 655 (e) An adult grandchild of the decedent;
- 656 (f) A grandparent of the decedent;
- 657 (g) A close personal friend, as defined in s. 765.101;
- 658 (h) A guardian of the person of the decedent at the time
659 of his or her death; or
- 660 (i) A representative ad litem appointed by a court of
661 competent jurisdiction upon a petition heard ex parte filed by
662 any person, who shall ascertain that no person of higher
663 priority exists who objects to the gift of all or any part of
664 the decedent's body and that no evidence exists of the
665 decedent's having made a communication expressing a desire that
666 his or her body or body parts not be donated upon death.
667
- 668 Those of higher priority who are reasonably available must be
669 contacted and made aware of the proposed gift and a reasonable
670 search must be conducted which shows that there would have been
671 no objection to the gift by the decedent.
- 672 Section 27. Subsection (1) of section 765.517, Florida
673 Statutes, is amended to read:
- 674 765.517 Rights and duties at death.—
- 675 (1) The donee, pursuant to s. 765.515(2), may accept or
676 reject an anatomical gift. If the donee accepts a gift to be

677 used for research or education purposes, the donee may authorize
678 embalming and the use of the body in funeral services, subject
679 to the terms of the gift. If the gift is of a part of the body,
680 the donee shall cause the part to be removed without unnecessary
681 mutilation upon the death of the donor and before or after
682 embalming. After removal of the body part, custody of the
683 remainder of the body vests in the surviving spouse, domestic
684 partner, next of kin, or other persons under obligation to
685 dispose of the body.

686 Section 28. Subsection (2) of section 872.04, Florida
687 Statutes, is amended to read:

688 872.04 Autopsies; consent required, exception.-

689 (2) Unless otherwise authorized by statute, no autopsy
690 shall be performed without the written consent by the health
691 care surrogate, as provided in s. 765.202, if one has been
692 designated. If a health care surrogate has not been designated,
693 then written consent may be provided by the spouse, domestic
694 partner, nearest relative, or, if no such next of kin can be
695 found, the person who has assumed custody of the body for
696 purposes of burial. When two or more persons assume custody of
697 the body for such purposes, then the consent of any one of them
698 shall be sufficient to authorize the autopsy.

699 Section 29. This act shall take effect July 1, 2014.