

1 **SECTION 100.** 853.11 (2m) and (3) of the statutes are amended to read:

2 853.11 (2m) PREMARITAL OR PREDOMESTIC PARTNERSHIP WILL. Entitlements of a
3 surviving spouse or surviving domestic partner under a decedent's will that was
4 executed before marriage to the surviving spouse or registration of the domestic
5 partnership under s. 770.07 to the surviving domestic partner are governed by s.
6 853.12.

7 **(3) TRANSFER TO FORMER SPOUSE OR FORMER DOMESTIC PARTNER.** A transfer under
8 a will to a former spouse or former domestic partner is governed by s. 854.15.

9 **SECTION 101.** 853.12 (title) of the statutes is amended to read:

10 **853.12 (title) Premarital will or predomestic partnership will.**

11 **SECTION 102.** 853.12 (1), (2) (intro.) and (a), (3) (a) and (b) and (4) (a) of the
12 statutes are amended to read:

13 853.12 (1) ENTITLEMENT OF SURVIVING SPOUSE OR SURVIVING DOMESTIC PARTNER.
14 Subject to sub. (3), if the testator married the surviving spouse or registered a
15 domestic partnership under s. 770.07 with the surviving domestic partner after the
16 testator executed his or her will, the surviving spouse or surviving domestic partner
17 is entitled to a share of the probate estate.

18 **(2) VALUE OF SHARE.** (intro.) The value of the share under sub. (1) is the value
19 of the share that the surviving spouse or surviving domestic partner would have
20 received had the testator died with an intestate estate equal to the value of the
21 testator's net estate, but the value of the net estate shall first be reduced by the value
22 of all of the following:

23 (a) All devises to or for the benefit of the testator's children who were born
24 before the marriage to the surviving spouse or the domestic partnership with the

1 surviving domestic partner and who are not also the children of the surviving spouse
2 or surviving domestic partner.

3 (3) (a) It appears from the will or other evidence that the will was made in
4 contemplation of the testator's marriage to the surviving spouse or domestic
5 partnership with the surviving domestic partner.

6 (b) It appears from the will or other evidence that the will is intended to be
7 effective notwithstanding any subsequent marriage or domestic partnership, or
8 there is sufficient evidence that the testator considered revising the will after
9 marriage or domestic partnership but decided not to.

10 (4) (a) Amounts received by the surviving spouse under s. 861.02 and devises
11 made by will to the surviving spouse or surviving domestic partner are applied first.

12 **SECTION 103.** 859.25 (1) (g) of the statutes is amended to read:

13 859.25 (1) (g) Property assigned to the surviving spouse or surviving domestic
14 partner under s. 861.41.

15 **SECTION 104.** 861.21 (title) of the statutes is amended to read:

16 **861.21 (title) Assignment of home to surviving spouse or surviving**
17 **domestic partner.**

18 **SECTION 105.** 861.21 (1) (b) of the statutes is amended to read:

19 861.21 (1) (b) "Home" means any dwelling in which the decedent had an
20 interest and that at the time of the decedent's death the surviving spouse or surviving
21 domestic partner occupies or intends to occupy. If there are several such dwellings,
22 any one may be designated by the surviving spouse or surviving domestic partner.
23 "Home" includes a house, a mobile home, a manufactured home, a duplex or multiple
24 apartment building one unit of which is occupied by the surviving spouse or
25 surviving domestic partner and a building used in part for a dwelling and in part for

1 commercial or business purposes. "Home" includes all of the surrounding land,
2 unless the court sets off part of the land as severable from the remaining land under
3 sub. (5).

4 **SECTION 106.** 861.21 (2), (4) and (5) of the statutes are amended to read:

5 861.21 (2) DECEDENT'S PROPERTY INTEREST IN HOME. Subject to subs. (4) and (5),
6 if a married or domestic partnership decedent has a property interest in a home, the
7 decedent's entire interest in the home shall be assigned to the surviving spouse or
8 surviving domestic partner if the surviving spouse or surviving domestic partner
9 petitions the court requesting such a distribution and if a governing instrument does
10 not provide a specific transfer of the decedent's interest in the home to someone other
11 than the surviving spouse or surviving domestic partner. The surviving spouse or
12 surviving domestic partner shall file the petition within 6 months after the
13 decedent's death, unless the court extends the time for filing.

14 (4) PAYMENT BY SURVIVING SPOUSE OR SURVIVING DOMESTIC PARTNER. The court
15 shall assign the interest in the home under sub. (2) to the surviving spouse or
16 surviving domestic partner upon payment of the value of the decedent's interest in
17 the home that does not pass to the surviving spouse or surviving domestic partner
18 under intestacy or under a governing instrument. Payment shall be made to the
19 fiduciary holding title to the interest. The surviving spouse or surviving domestic
20 partner may use assets due him or her from the fiduciary to satisfy all or part of the
21 payment in kind. Unless the court extends the time, the surviving spouse or
22 surviving domestic partner shall have one year from the decedent's death to pay the
23 value of the assigned interest.

24 (5) SEVERANCE OF HOME FROM SURROUNDING LAND. On petition of the surviving
25 spouse or surviving domestic partner or of any interested person that part of the land

1 is not necessary for dwelling purposes and that it would be inappropriate to assign
2 all of the surrounding land as the home under sub. (2), the court may set off for the
3 home as much of the land as is necessary for a dwelling. In determining how much
4 land should be set off, the court shall take into account the use and marketability of
5 the parcels set off as the home and the remaining land.

6 **SECTION 107.** 861.31 (1m), (2) and (4) (intro.) and (b) of the statutes are
7 amended to read:

8 861.31 **(1m)** The court may, without notice or on such notice as the court
9 directs, order payment by the personal representative or special administrator of an
10 allowance as the court determines necessary or appropriate for the support of the
11 surviving spouse or surviving domestic partner and any minor children of the
12 decedent during the administration of the estate. The court shall consider the size
13 of the probate estate, other resources available for support, the existing standard of
14 living, and any other factors it considers relevant.

15 **(2)** The court may order that an allowance be made to the spouse or surviving
16 domestic partner for support of the spouse or surviving domestic partner and any
17 minor children of the decedent, or that separate allowances be made to the spouse
18 or surviving domestic partner and to the minor children of the decedent or their
19 guardian, if any, if the court finds separate allowances advisable. If there is no
20 surviving spouse or surviving domestic partner, the court may order that an
21 allowance be made to the minor children of the decedent or to their guardian, if any.

22 **(4)** (intro.) The court may order that the allowance be charged against income
23 or principal, either as an advance or otherwise, but the court may not order that an
24 allowance for support of minor children of the decedent be charged against the
25 income or principal interest of the surviving spouse or surviving domestic partner.

1 The court may order that the allowance for support of the surviving spouse or
2 surviving domestic partner, not including any allowance for support of minor
3 children of the decedent, be applied in satisfaction of any of the following:

4 (b) Any right of the surviving spouse or surviving domestic partner to elect
5 under s. 861.02.

6 **SECTION 108.** 861.33 (title) of the statutes is amended to read:

7 **861.33 (title) Selection of personalty by surviving spouse or surviving**
8 **domestic partner.**

9 **SECTION 109.** 861.33 (1) (a) (intro.) and 1. and (b) of the statutes are amended
10 to read:

11 861.33 (1) (a) (intro.) Subject to this section, in addition to all allowances and
12 distributions, the surviving spouse or surviving domestic partner may file with the
13 court a written selection of the following personal property, which shall then be
14 transferred to the spouse or domestic partner by the personal representative:

15 1. Wearing apparel and jewelry held for personal use by the decedent or the
16 surviving spouse or surviving domestic partner;

17 (b) The selection in par. (a) may not include items specifically bequeathed
18 except that the surviving spouse or surviving domestic partner may in every case
19 select the normal household furniture, furnishings, and appliances necessary to
20 maintain the home. For this purpose antiques, family heirlooms, and collections that
21 are specifically bequeathed are not classifiable as normal household furniture or
22 furnishings.

23 **SECTION 110.** 861.35 (title) of the statutes is amended to read:

24 **861.35 (title) Special allowance for support of spouse or domestic**
25 **partner and support and education of minor children.**

1 **SECTION 111.** 861.35 (1m), (2), (3) (a) and (4) of the statutes are amended to
2 read:

3 **861.35 (1m)** If the decedent is survived by a spouse, domestic partner, or by
4 minor children, the court may order an allowance for the support and education of
5 each minor child until he or she reaches a specified age, not to exceed 18, and for the
6 support of the spouse or domestic partner. This allowance may be made whether the
7 estate is testate or intestate. If the decedent is not survived by a spouse or domestic
8 partner, the court also may allot directly to the minor children household furniture,
9 furnishings, and appliances. The court may not order an allowance under this
10 section if any of the following applies:

11 (a) The decedent has amply provided for each minor child and for the spouse
12 or domestic partner by the transfer of probate or nonprobate assets, or support and
13 education have been provided for by any other means.

14 (b) In the case of minor children, the surviving spouse or surviving domestic
15 partner is legally responsible for support and education and has ample means to
16 provide them in addition to his or her own support.

17 (c) In the case of the surviving spouse or surviving domestic partner, he or she
18 has ample means to provide for his or her support.

19 **(2)** The court may set aside property to provide an allowance and may appoint
20 a trustee to administer the property, subject to the continuing jurisdiction of the
21 court. If a child dies or reaches the age of 18, or if at any time the property held by
22 the trustee is no longer required for the support of the spouse or domestic partner or
23 the support and education of the minor child, any remaining property is to be
24 distributed by the trustee as the court orders in accordance with the terms of the

1 decedent's will or to the heirs of the decedent in intestacy or to satisfy unpaid claims
2 of the decedent's estate.

3 (3) (a) The effect on claims under s. 859.25. The court shall balance the needs
4 of the spouse, domestic partner, or minor children against the nature of the creditors'
5 claims in setting the amount allowed under this section.

6 (4) The court may order that the allowance to the surviving spouse or surviving
7 domestic partner, not including any allowance for the support and education of minor
8 children, be applied in satisfaction of any of the following:

9 (a) Any entitlement of the surviving spouse or surviving domestic partner
10 under s. 853.12.

11 (b) Any right of the surviving spouse or surviving domestic partner to elect
12 under s. 861.02 (1).

13 **SECTION 112.** 861.41 of the statutes is amended to read:

14 **861.41 Exemption of property to be assigned to surviving spouse or**
15 **surviving domestic partner.** (1) After the amount of claims against the estate
16 has been ascertained, the surviving spouse or surviving domestic partner may
17 petition the court to set aside as exempt from the claims of creditors under s. 859.25
18 (1) (h) an amount of property reasonably necessary for the support of the spouse or
19 domestic partner, not to exceed \$10,000 in value, if it appears that the assets are
20 insufficient to pay all claims and allowances and still leave the surviving spouse or
21 surviving domestic partner such an amount of property in addition to selection and
22 allowances.

23 (2) The court shall grant the petition if it determines that an assignment ahead
24 of creditors is reasonably necessary for the support of the spouse or domestic partner.
25 In determining the necessity and the amount of property to be assigned, the court

1 must take into consideration the availability of a home to the surviving spouse or
2 surviving domestic partner and all other assets and resources available for support.

3 **SECTION 113.** 867.01 (1) (b) and (3) (f) of the statutes are amended to read:

4 867.01 (1) (b) Whenever the estate, less the amount of the debts for which any
5 property in the estate is security, does not exceed \$50,000 in value and the decedent
6 is survived by a spouse or domestic partner, or one or more minor children or both.

7 (3) (f) *Order.* If the court is satisfied that the estate may be settled under this
8 section, after 30 days have elapsed since notice to the department of health services
9 under par. (d), if that notice is required, the court shall assign the property to the
10 persons entitled to it. If the estate may be settled under sub. (1) (b), any property not
11 otherwise assigned shall be assigned to the surviving spouse or surviving domestic
12 partner, or minor children or both as an allowance under s. 861.31. The court shall
13 order any person indebted to or holding money or other property of the decedent to
14 pay the indebtedness or deliver the property to the persons found to be entitled to
15 receive it. The court shall order the transfer of interests in real estate, stocks or
16 bonds registered in the name of the decedent, the title of a licensed motor vehicle, or
17 any other form of property. If the decedent immediately prior to death had an estate
18 for life or an interest as a joint tenant in any property in regard to which a certificate
19 of termination in accordance with s. 867.04 has not been issued, the order shall set
20 forth the termination of that life estate or the right of survivorship of any joint
21 tenant. Every tract of real property in which an interest is assigned or terminated
22 or which is security for a debt in which an interest is assigned or terminated shall
23 be specifically described.

24 **SECTION 114.** 895.04 (2) and (6) of the statutes are amended to read:

Insert
59-23 (C-1308/P2 insert)

1 895.04 (2) If the deceased leaves surviving a spouse or state-registered
2 domestic partner under s. 770.05, and minor children under 18 years of age with
3 whose support the deceased was legally charged, the court before whom the action
4 is pending, or if no action is pending, any court of record, in recognition of the duty
5 and responsibility of a parent to support minor children, shall determine the amount,
6 if any, to be set aside for the protection of such children after considering the age of
7 such children, the amount involved, the capacity and integrity of the surviving
8 spouse or surviving domestic partner, and any other facts or information it may have
9 or receive, and such amount may be impressed by creation of an appropriate lien in
10 favor of such children or otherwise protected as circumstances may warrant, but
11 such amount shall not be in excess of 50% of the net amount received after deduction
12 of costs of collection. If there are no such surviving minor children, the amount
13 recovered shall belong and be paid to the spouse or domestic partner of the deceased;
14 if no spouse or domestic partner survives, to the deceased's lineal heirs as determined
15 by s. 852.01; if no lineal heirs survive, to the deceased's brothers and sisters. If any
16 such relative dies before judgment in the action, the relative next in order shall be
17 entitled to recover for the wrongful death. A surviving nonresident alien spouse or
18 a nonresident alien domestic partner state-registered under s. 770.05 and minor
19 children shall be entitled to the benefits of this section. In cases subject to s. 102.29
20 this subsection shall apply only to the surviving spouse's or surviving domestic
21 partner's interest in the amount recovered. If the amount allocated to any child
22 under this subsection is less than \$10,000, s. 807.10 may be applied. Every
23 settlement in wrongful death cases in which the deceased leaves minor children
24 under 18 years of age shall be void unless approved by a court of record authorized
25 to act hereunder.

1 **(6)** Where the wrongful death of a person creates a cause of action in favor of
2 the decedent's estate and also a cause of action in favor of a spouse, state-registered
3 domestic partner under s. 770.05, or relatives as provided in this section, such
4 spouse, domestic partner, or relatives may waive and satisfy the estate's cause of
5 action in connection with or as part of a settlement and discharge of the cause of
6 action of the spouse, domestic partner, or relatives.

7 **SECTION 115.** 905.05 (title) of the statutes is amended to read:

8 **905.05 (title) Husband-wife and domestic partner privilege.**

9 **SECTION 116.** 905.05 (1), (2) and (3) (a), (b), (c) and (d) of the statutes are
10 amended to read:

11 **905.05 (1) GENERAL RULE OF PRIVILEGE.** A person has a privilege to prevent the
12 person's spouse or former spouse or domestic partner or former domestic partner
13 from testifying against the person as to any private communication by one to the
14 other made during their marriage or domestic partnership. As used in this section,
15 "domestic partner" means a state-registered domestic partner under s. 770.05.

16 **(2) WHO MAY CLAIM THE PRIVILEGE.** The privilege may be claimed by the person
17 or by the spouse or domestic partner on the person's behalf. The authority of the
18 spouse or domestic partner to do so is presumed in the absence of evidence to the
19 contrary.

20 **(3) (a)** If both spouses or former spouses or domestic partners or former
21 domestic partners are parties to the action.

22 **(b)** In proceedings in which one spouse or former spouse or domestic partner
23 or former domestic partner is charged with a crime against the person or property
24 of the other or of a child of either, or with a crime against the person or property of
25 a 3rd person committed in the course of committing a crime against the other.

SECTION 116

1 (c) In proceedings in which a spouse or former spouse or domestic partner or
2 former domestic partner is charged with a crime of pandering or prostitution.

3 (d) If one spouse or former spouse or domestic partner or former domestic
4 partner has acted as the agent of the other and the private communication relates
5 to matters within the scope of the agency.

6 **SECTION 117.** 949.01 (2) of the statutes is amended to read:

7 949.01 (2) "Dependent" means any spouse, state-registered domestic partner
8 under s. 770.05, parent, grandparent, stepparent, child, stepchild, adopted child,
9 grandchild, brother, sister, half brother, half sister, or parent of spouse or of
10 state-registered domestic partner under s. 770.05, of a deceased victim who was
11 wholly or partially dependent upon the victim's income at the time of the victim's
12 death and includes any child of the victim born after the victim's death.

13 **SECTION 118.** 949.06 (1m) (a) of the statutes is amended to read:

14 949.06 (1m) (a) In this subsection, "family member" means any spouse,
15 state-registered domestic partner under s. 770.05, parent, grandparent, stepparent,
16 child, stepchild, adopted child, grandchild, foster child, treatment foster child,
17 brother, sister, half brother, half sister, aunt, uncle, nephew, niece, or parent or
18 sibling of spouse or of state-registered domestic partner under s. 770.05.

19 **SECTION 119.** 971.17 (4m) (a) 2. of the statutes is amended to read:

20 971.17 (4m) (a) 2. "Member of the family" means spouse, state-registered
21 domestic partner under s. 770.05, child, sibling, parent or legal guardian.

22 **SECTION 120.** 971.17 (6m) (a) 2. of the statutes is amended to read:

23 971.17 (6m) (a) 2. "Member of the family" means spouse, state-registered
24 domestic partner under s. 770.05, child, sibling, parent or legal guardian.

25 **SECTION 121.** 980.11 (1) (b) of the statutes is amended to read:

Insert PH2
60.24

Insert ANL/MGG

NATURAL RESOURCES

OTHER NATURAL RESOURCES

Under current law, with an exception, DNR must transfer a decedent's interest in a boat to his or her surviving spouse upon receipt of the title executed by the surviving spouse and an affidavit by the spouse that includes specified information.

Under this bill, a domestic partner is provided the same privileges as a surviving spouse for purposes of these boat transfer provisions.

1 **Insert 7-1**

2 **SECTION 1.** 30.50 (3n) of the statutes is created to read:

3 30.50 (3n) "Domestic partner" means a state-registered domestic partner
4 under s. 770.05.

5 **SECTION 2.** 30.541 (3) (d) 2. a. of the statutes is amended to read:

6 30.541 (3) (d) 2. a. The department shall transfer the decedent's interest in a
7 boat to his or her surviving spouse or domestic partner upon receipt of the title
8 executed by the surviving spouse or domestic partner and an affidavit signed by the
9 spouse or domestic partner that includes the date of death of the decedent; the
10 approximate value and description of the boat; and a statement that the spouse or
11 domestic partner is personally liable for the decedent's debts and charges to the
12 extent of the value of the boat, subject to s. 859.25.

13 History: 1987 a. 397; 1989 a. 56, 128; 1991 a. 269; 1997 a. 27; 1999 a. 94; 2001 a. 102; 2005 a. 216.

13 **SECTION 3.** 30.541 (3) (d) 2. d. of the statutes is amended to read:

14 30.541 (3) (d) 2. d. The limit in subd. 2. c. does not apply if the surviving spouse
15 or domestic partner proceeds under s. 867.03 (1g) and the total value of the decedent's
16 property subject to administration in the state, including boats transferred under
17 this subdivision, does not exceed \$50,000.

History: 1987 a. 397; 1989 a. 56, 128; 1991 a. 269; 1997 a. 27; 1999 a. 94; 2001 a. 102; 2005 a. 216.



DOA:.....Frederick, BB0271 - Domestic partner coverage under state insurance plans

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

RETIREMENT AND GROUP INSURANCE

Under current law, the Group Insurance Board (GIB) offers health care coverage plans for state employees, local government employees, school district employees, and annuitants under the Wisconsin Retirement System. This bill provides that domestic partners of state employees and annuitants are eligible to receive coverage under the health care coverage plans offered by GIB and that state employees and state annuitants are able to purchase the policies for their domestic partners. Under the bill, a "domestic partner" is defined as any individual who is in a relationship with any other individual that satisfies all of the following:

1. Each individual is at least 18 years old and otherwise competent to enter into a contract.
2. Neither individual is married to, or in a domestic partnership with, another individual.
3. The two individuals are not related by blood in any way that would prohibit marriage under current law.
4. The two individuals consider themselves to be members of each other's immediate family.
5. The two individuals agree to be responsible for each other's basic living expenses.

not
For purposes of these benefits, however,

A-RAC

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 40.02 (20) of the statutes is renumbered 40.02 (20) (intro.) and
2 amended to read:

3 40.02 (20) (intro.) "Dependent" means the:

4 (a) ~~Except as provided in par. (b), the~~ spouse, minor child, including
5 stepchildren of the current marriage dependent on the employee for support and
6 maintenance, or child of any age, including stepchildren of the current marriage, if
7 handicapped to an extent requiring continued dependence. For group insurance
8 purposes only, the department may promulgate rules with a different definition of
9 "dependent" than the one otherwise provided in this subsection paragraph for each
10 group insurance plan.

11 **SECTION 2.** 40.02 (20) (b) of the statutes is created to read:

12 40.02 (20) (b) For a state employee or for an annuitant who was employed by
13 a state agency on the day on which he or she terminated covered employment, the
14 spouse, domestic partner, minor child, including stepchildren of the current
15 marriage or children of a domestic partner dependent on the employee or annuitant
16 for support and maintenance, or child of any age, including stepchildren of the
17 current marriage or children of a domestic partner, if handicapped to an extent
18 requiring continued dependence.

19 **SECTION 3.** 40.02 (21c) of the statutes is created to read:

8-20 20 40.02 (21c) "Domestic partner" means an individual in a domestic partnership.

21 **SECTION 4.** 40.02 (21d) of the statutes is created to read:



INSERT ANALYSIS

✓
COMMERCE AND ECONOMIC DEVELOPMENT

BUILDINGS AND SAFETY

✓ X
Under current law, Commerce collects a supplemental title fee in connection with applications for the transfer of ownership of a manufactured home. This fee is waived for the transfer of a decedent's interest in a manufactured home to his or her surviving spouse. Also, under current law, with an exception, Commerce must transfer a decedent's interest in a manufactured home to his or her surviving spouse upon receipt of the title executed by the surviving spouse and a statement by the spouse that includes specified information.

Under this bill, a domestic partner is provided the same privileges as a surviving spouse for purposes of these manufactured home transfer provisions.

INSERT 21-12

✓
1 **SECTION 1.** 101.9211 (4) (b) 1. (intro.) of the statutes is amended to read:
2 101.9211 (4) (b) 1. (intro.) Except as provided under subd. 1m., the department
3 shall transfer the decedent's interest in any manufactured home to his or her
4 surviving spouse or state-registered domestic partner under s. 770.05 upon receipt
5 of the title executed by the surviving spouse or state-registered domestic partner
6 and a statement by the spouse or state-registered domestic partner that states all
7 of the following:

History: 1999 a. 9, 53, 185; 2001 a. 16, 102; 2005 a. 216.

8 **SECTION 2.** 101.9211 (4) (b) 1. c. of the statutes is amended to read:
9 101.9211 (4) (b) 1. c. That the spouse or state-registered domestic partner
10 under s. 770.05 is personally liable for the decedent's debts and charges to the extent
11 of the value of the manufactured home, subject to s. 859.25.

History: 1999 a. 9, 53, 185; 2001 a. 16, 102; 2005 a. 216.

12 **SECTION 3.** 101.9211 (4) (b) 1m. of the statutes is amended to read:
13 101.9211 (4) (b) 1m. The department may not require a surviving spouse or
14 state-registered domestic partner under s. 770.05 to provide an executed title to a

1 manufactured home under subd. 1. if the manufactured home has no certificate of
2 title as a result of the exemption under s. 101.9203 (4).

3 **History:** 1999 a. 9, 53, 185; 2001 a. 16, 102; 2005 a. 216.

3 **SECTION 4.** 101.9211 (4) (b) 4. of the statutes is amended to read:

4 101.9211 (4) (b) 4. The limit in subd. 3. does not apply if the surviving spouse
5 or state-registered domestic partner under s. 770.05 is proceeding under s. 867.03
6 (1g) and the total value of the decedent's property subject to administration in the
7 state, including the manufactured homes transferred under this paragraph, does not
8 exceed \$50,000.

History: 1999 a. 9, 53, 185; 2001 a. 16, 102; 2005 a. 216.

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1308/rrins
RLR:.....

1

Analysis insert p. 4

INS RR

X
Currently, a person's health care provider may not serve as the person's health care agent unless the health care provider is also a relative of the person. Also, a person's relative may not serve as a witness to the execution of the person's power of attorney for health care. A person's power of attorney for health care takes effect upon a finding by two physicians, or a physician and a psychologist, that the person is incapacitated. A person's relative may not make this finding of incapacity. The bill provides that a domestic partner is a relative for activities related to a power of attorney for health care.

2

Ins 16-24:

3

SECTION 1. 50.034 (9) of the statutes is created to read:

4

X
50.034 (9) OTHER PENALTIES. Any person who violates sub. (3) (e) may be fined not more than \$500 or imprisoned for not more than one year in the county jail or both.

7

8

9

Ins 17-5:

10

SECTION 2. 50.035 (12) of the statutes is created to read:

11

X
50.035 (12) OTHER PENALTIES. Any person who violates sub. (2d) may be fined not more than \$500 or imprisoned for not more than one year in the county jail or both.

14

15

16

Ins 17-10:

17

X
SECTION 3. 50.04 (5) (a) (intro.) of the statutes is amended to read:

1 50.04 (5) (a) *Amounts.* (intro.) ~~Any~~ Except as provided under sub. (5g), any
2 operator or owner of a nursing home which is in violation of this subchapter or any
3 rule promulgated thereunder may be subject to the forfeitures specified in this
4 section.

History: 1977 c. 170 ss. 6, 29; 1977 c. 272; 1979 c. 34; 1981 c. 20, 121, 317, 391; 1983 a. 27 s. 2200 (1); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (7); 1987 a. 27, 127, 399; 1989 a. 31, 336; 1991 a. 39, 269, 315; 1995 a. 27; 1997 a. 27, 114, 237, 252, 280; 1999 a. 9, 32, 103; 2003 a. 33; 2007 a. 20, 153.

5 **SECTION 4.** 50.04 (5g) of the statutes is created to read:

6 ~~X~~ 50.04 (5g) OTHER PENALTIES. Any person who violates sub. (2d) may be fined
7 not more than \$500 or imprisoned for not more than one year in the county jail or
8 both.

9
10
11 **Ins 18-4:**

12 **SECTION 5.** 50.389 of the statutes is renumbered 50.38.

13 ~~X~~ **SECTION 6.** 50.382 of the statutes is created to read:

14 **50.382 Other penalties.** Any person who violates s. 50.36 (3j) may be fined
15 not more than \$500 or imprisoned for not more than one year in the county jail or
16 both.

17
18
19 **Ins 18-12:**

20 ~~X~~ (2) Any person who violates sub. (1) may be fined not more than \$500 or
21 imprisoned for not more than one year in the county jail or both.

22
23 **Ins 28-4:**

24 ~~X~~ **SECTION 7.** 155.01 (12) of the statutes is repealed and recreated to read:

1 155.01 (12) "Relative" means an individual related by blood within the 3rd
2 degree of kinship as computed under s. 990.001 (16); a spouse, state-registered
3 domestic partner under s. 770.05, or an individual related to a spouse or domestic
4 partner within the 3rd degree as so computed; and includes an individual in an
5 adoptive relationship within the 3rd degree.

History: 1987 a. 192; 1989 a. 278; 1993 a. 112; 1997 a. 188; 1999 a. 32, 85, 162; 2001 a. 38.

6 **SECTION 8.** 155.10 (2) (a) of the statutes is amended to read:

7 155.10 (2) (a) Related to the principal by blood, marriage, or adoption, or the
8 state-registered domestic partner under ch. 770.05 of the individual.

History: 1989 a. 200; 1991 a. 281.

9

10
11

Ins 31-4:

30-6



12 **SECTION 9.** 155.30 (3) (form) of the statutes is amended to read:

13 155.30 (3) (form)

14 POWER OF ATTORNEY FOR HEALTH CARE

15 Document made this.... day of.... (month),.... (year).

16 CREATION OF POWER OF ATTORNEY

17 FOR HEALTH CARE

18 I,... (print name, address and date of birth), being of sound mind, intend by this
19 document to create a power of attorney for health care. My executing this power of
20 attorney for health care is voluntary. Despite the creation of this power of attorney
21 for health care, I expect to be fully informed about and allowed to participate in any
22 health care decision for me, to the extent that I am able. For the purposes of this
23 document, "health care decision" means an informed decision to accept, maintain,

1 discontinue or refuse any care, treatment, service or procedure to maintain, diagnose
2 or treat my physical or mental condition.

3 In addition, I may, by this document, specify my wishes with respect to making
4 an anatomical gift upon my death.

5 DESIGNATION OF HEALTH CARE AGENT

6 If I am no longer able to make health care decisions for myself, due to my
7 incapacity, I hereby designate.... (print name, address and telephone number) to be
8 my health care agent for the purpose of making health care decisions on my behalf.

9 If he or she is ever unable or unwilling to do so, I hereby designate.... (print name,
10 address and telephone number) to be my alternate health care agent for the purpose
11 of making health care decisions on my behalf. Neither my health care agent nor my

12 alternate health care agent whom I have designated is my health care provider, an
13 employee of my health care provider, an employee of a health care facility in which
14 I am a patient or a spouse of any of those persons, unless he or she is also my relative.

15 For purposes of this document, "incapacity" exists if 2 physicians or a physician and
16 a psychologist who have personally examined me sign a statement that specifically
17 expresses their opinion that I have a condition that means that I am unable to receive
18 and evaluate information effectively or to communicate decisions to such an extent
19 that I lack the capacity to manage my health care decisions. A copy of that statement
20 must be attached to this document.

21 GENERAL STATEMENT OF AUTHORITY GRANTED

22 Unless I have specified otherwise in this document, if I ever have incapacity I
23 instruct my health care provider to obtain the health care decision of my health care
24 agent, if I need treatment, for all of my health care and treatment. I have discussed
25 my desires thoroughly with my health care agent and believe that he or she

1 understands my philosophy regarding the health care decisions I would make if I
2 were able. I desire that my wishes be carried out through the authority given to my
3 health care agent under this document.

4 If I am unable, due to my incapacity, to make a health care decision, my health
5 care agent is instructed to make the health care decision for me, but my health care
6 agent should try to discuss with me any specific proposed health care if I am able to
7 communicate in any manner, including by blinking my eyes. If this communication
8 cannot be made, my health care agent shall base his or her decision on any health
9 care choices that I have expressed prior to the time of the decision. If I have not
10 expressed a health care choice about the health care in question and communication
11 cannot be made, my health care agent shall base his or her health care decision on
12 what he or she believes to be in my best interest.

13 **LIMITATIONS ON MENTAL HEALTH TREATMENT**

14 My health care agent may not admit or commit me on an inpatient basis to an
15 institution for mental diseases, an intermediate care facility for persons with mental
16 retardation, a state treatment facility or a treatment facility. My health care agent
17 may not consent to experimental mental health research or psychosurgery,
18 electroconvulsive treatment or drastic mental health treatment procedures for me.

19 **ADMISSION TO NURSING HOMES OR**

20 **COMMUNITY-BASED RESIDENTIAL FACILITIES**

21 My health care agent may admit me to a nursing home or community-based
22 residential facility for short-term stays for recuperative care or respite care.

23 If I have checked "Yes" to the following, my health care agent may admit me for
24 a purpose other than recuperative care or respite care, but if I have checked "No" to
25 the following, my health care agent may not so admit me:

1 1. A nursing home — Yes.... No....

2 2. A community-based residential facility — Yes.... No....

3 If I have not checked either “Yes” or “No” immediately above, my health care
4 agent may admit me only for short-term stays for recuperative care or respite care.

5 **PROVISION OF A FEEDING TUBE**

6 If I have checked “Yes” to the following, my health care agent may have a
7 feeding tube withheld or withdrawn from me, unless my physician has advised that,
8 in his or her professional judgment, this will cause me pain or will reduce my comfort.

9 If I have checked “No” to the following, my health care agent may not have a feeding
10 tube withheld or withdrawn from me.

11 My health care agent may not have orally ingested nutrition or hydration
12 withheld or withdrawn from me unless provision of the nutrition or hydration is
13 medically contraindicated.

14 Withhold or withdraw a feeding tube — Yes.... No....

15 If I have not checked either “Yes” or “No” immediately above, my health care
16 agent may not have a feeding tube withdrawn from me.

17 **HEALTH CARE DECISIONS FOR**

18 **PREGNANT WOMEN**

19 If I have checked “Yes” to the following, my health care agent may make health
20 care decisions for me even if my agent knows I am pregnant. If I have checked “No”
21 to the following, my health care agent may not make health care decisions for me if
22 my health care agent knows I am pregnant.

23 Health care decision if I am pregnant — Yes.... No....

1 If I have not checked either "Yes" or "No" immediately above, my health care
2 agent may not make health care decisions for me if my health care agent knows I am
3 pregnant.

4 STATEMENT OF DESIRES,
5 SPECIAL PROVISIONS OR LIMITATIONS

6 In exercising authority under this document, my health care agent shall act
7 consistently with my following stated desires, if any, and is subject to any special
8 provisions or limitations that I specify. The following are specific desires, provisions
9 or limitations that I wish to state (add more items if needed):

- 10 1) -
- 11 2) -
- 12 3) -

13 INSPECTION AND DISCLOSURE OF
14 INFORMATION RELATING TO MY PHYSICAL
15 OR MENTAL HEALTH

16 Subject to any limitations in this document, my health care agent has the
17 authority to do all of the following:

- 18 (a) Request, review and receive any information, oral or written, regarding my
19 physical or mental health, including medical and hospital records.
- 20 (b) Execute on my behalf any documents that may be required in order to obtain
21 this information.
- 22 (c) Consent to the disclosure of this information.

23 (The principal and the witnesses all must sign the document at the same time.)

24 SIGNATURE OF PRINCIPAL

25 (person creating the power of attorney for health care)

1 I understand that.... (name of principal) has designated me to be his or her
 2 health care agent or alternate health care agent if he or she is ever found to have
 3 incapacity and unable to make health care decisions himself or herself. (name of
 4 principal) has discussed his or her desires regarding health care decisions with me.

5 Agent's signature....

6 Address....

7 Alternate's signature....

8 Address....

9 Failure to execute a power of attorney for health care document under chapter
 10 155 of the Wisconsin Statutes creates no presumption about the intent of any
 11 individual with regard to his or her health care decisions.

12 This power of attorney for health care is executed as provided in chapter 155
 13 of the Wisconsin Statutes.

14 ANATOMICAL GIFTS (optional)

15 Upon my death:

16 I wish to donate only the following organs or parts: (specify the organs or
 17 parts).

18 I wish to donate any needed organ or part.

19 I wish to donate my body for anatomical study if needed.

20 I refuse to make an anatomical gift. (If this revokes a prior commitment that
 21 I have made to make an anatomical gift to a designated donee, I will attempt to notify
 22 the donee to which or to whom I agreed to donate.)

23 Failing to check any of the lines immediately above creates no presumption
 24 about my desire to make or refuse to make an anatomical gift.

1 Signature.... Date....

2 History: 1989 a. 200; 1991 a. 281; 1993 a. 213, 491; 1997 a. 206; 2007 a. 106, 153.

3

4

Ins 27-13 X ✓

5

SECTION 10. 146.75 of the statutes is created to read:

6

146.75 **Medical clinic accompaniment or visitation.** (1) In this section, "medical clinic" means a place, other than a residence, that is used primarily for the provision of nursing, medical, podiatric, dental, chiropractic, or optometric care or treatment.

7

8

9

10

(2) If a medical clinic has a policy on who may accompany or visit a patient, the medical clinic shall extend the same right of accompaniment or visitation to a patient's state-registered domestic partner under s. 770.05 as is accorded the spouse of a patient under the policy.

11

12

13

14

(2) Any person who violates sub. (2) may be fined not more than \$500 or imprisoned for not more than one year in the county jail or both.

15

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1308/P2insgm
GMM.....

✓ (INSERT 7-1GM)

1 SECTION 1. 15.04 (1) (g) of the statutes is amended to read:

2 15.04 (1) (g) *Discrimination review*. In order to determine whether there is any
3 arbitrary discrimination on the basis of race, religion, national origin, sex, marital
4 or domestic partnership status, as defined in s. 111.32 (12), or sexual orientation, as
5 defined in s. 111.32 (13m), examine and assess the statutes under which the head has
6 powers or regulatory responsibilities, the procedures by which those statutes are
7 administered, and the rules promulgated under those statutes. If the department
8 or agency head finds any such discrimination, he or she shall take remedial action,
9 including making recommendations to the appropriate executive, legislative, or
10 administrative authority.

History: 1971 c. 125; 1975 c. 94; 1977 c. 196, 273, 418, 447; 1979 c. 221; 1981 c. 112, 350; 1981 c. 391 s. 210; 1983 a. 27, 524; 1985 a. 29; 1985 a. 180 ss. 2 to 4, 30m; 1985 a. 332; 1987 a. 147 s. 25; 1987 a. 186; 1989 a. 248; 1991 a. 39, 189; 1995 a. 27; 1997 a. 73; 2007 a. 200.

11 SECTION 2. 36.12 (1) of the statutes is amended to read:

12 36.12 (1) No student may be denied admission to, participation in, or the
13 benefits of, or be discriminated against in any service, program, course, or facility of
14 the system or its institutions because of the student's race, color, creed, religion, sex,
15 national origin, disability, ancestry, age, sexual orientation, pregnancy, marital or
16 domestic partnership status, or parental status.

History: 1989 a. 186; 1997 a. 237.

17 SECTION 3. 38.23 (1) of the statutes is amended to read:

18 38.23 (1) No student may be denied admission to, participation in or the
19 benefits of, or be discriminated against in any service, program, course or facility of
20 the board or any district because of the student's race, color, creed, religion, sex,

2

1 national origin, disability, ancestry, age, sexual orientation, pregnancy, marital or
2 domestic partnership status, or parental status.

History: 1989 a. 186.

(END OF INSERT)

(INSERT 21-2GM)

3 SECTION 4. 66.1011 (1) of the statutes is amended to read:

4 66.1011 (1) DECLARATION OF POLICY. The right of all persons to have equal
5 opportunities for housing regardless of their sex, race, color, physical condition,
6 disability, as defined in s. 106.50 (1m) (g), sexual orientation, as defined in s. 111.32
7 (13m), religion, national origin, marital or domestic partnership status, as defined
8 in s. 111.32 (12), family status, as defined in s. 106.50 (1m) (k), lawful source of
9 income, age, or ancestry is a matter both of statewide concern under ss. 101.132 and
10 106.50 and also of local interest under this section and s. 66.0125. The enactment
11 of ss. 101.132 and 106.50 by the legislature does not preempt the subject matter of
12 equal opportunities in housing from consideration by political subdivisions, and does
13 not exempt political subdivisions from their duty, nor deprive them of their right, to
14 enact ordinances which that prohibit discrimination in any type of housing solely on
15 the basis of an individual being a member of a protected class.

History: 1971 c. 185 s. 7; 1975 c. 94, 275, 422; 1977 c. 418 s. 929 (55); 1981 c. 112; 1981 c. 391 s. 210; 1985 a. 29; 1989 a. 47; 1991 a. 295; 1995 a. 27; 1997 a. 237; 1999 a. 82; 1999 a. 150 s. 447; Stats. 1999 s. 66.1011; 1999 a. 186 ss. 61, 62.

(END OF INSERT)

(INSERT 26-21GM)

16 SECTION 5. 106.50 (1) of the statutes is amended to read:

17 106.50 (1) INTENT. It is the intent of this section to render unlawful
18 discrimination in housing. It is the declared policy of this state that all persons shall
19 have an equal opportunity for housing regardless of sex, race, color, sexual

1 orientation, disability, religion, national origin, marital or domestic partnership ✓
 2 status, family status, lawful source of income, age, or ancestry and it is the duty of
 3 the political subdivisions to assist in the orderly prevention or removal of all
 4 discrimination in housing through the powers granted under ss. 66.0125 and
 5 66.1011. The legislature hereby extends the state law governing equal housing
 6 opportunities to cover single-family residences ~~which~~ that are owner-occupied. The
 7 legislature finds that the sale and rental of single-family residences constitute a
 8 significant portion of the housing business in this state and should be regulated.
 9 This section shall be deemed considered an exercise of the police powers of the state
 10 for the protection of the welfare, health, peace, dignity, and human rights of the
 11 people of this state.

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 38 to 74; Stats. 1999 s. 106.50; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 30 s. 108; 2001 a. 109; 2005 a. 25; 2007 a. 11.

12 **SECTION 6.** 106.50 (1m) (h) of the statutes is amended to read:

13 106.50 (1m) (h) "Discriminate" means to segregate, separate, exclude, or treat
 14 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)
 15 because of sex, race, color, sexual orientation, disability, religion, national origin,
 16 marital or domestic partnership status, family status, lawful source of income, age,
 17 or ancestry.

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 38 to 74; Stats. 1999 s. 106.50; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 30 s. 108; 2001 a. 109; 2005 a. 25; 2007 a. 11.

18 **SECTION 7.** 106.50 (1m) (nm) of the statutes is amended to read:

19 106.50 (1m) (nm) "Member of a protected class" means a group of natural
 20 persons, or a natural person, who may be categorized based on ~~one or more of the~~
 21 ~~following characteristics:~~ sex, race, color, disability, sexual orientation, as defined

1 in s. 111.32 (13m), religion, national origin, marital or domestic partnership status,
2 as defined in s. 111.32 (12), family status, lawful source of income, age, or ancestry.

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 38 to 74; Stats. 1999 s. 106.50; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 30 s. 108; 2001 a. 109; 2005 a. 25; 2007 a. 11.

(END OF INSERT)

(INSERT 27-13GM)

3 **SECTION 8.** 111.31 (1) of the statutes is amended to read:

4 111.31 (1) The legislature finds that the practice of unfair discrimination in
5 employment against properly qualified individuals by reason of their age, race,
6 creed, color, disability, marital or domestic partnership status, sex, national origin,
7 ancestry, sexual orientation, arrest record, conviction record, military service, or use
8 or nonuse of lawful products off the employer's premises during nonworking hours
9 substantially and adversely affects the general welfare of the state. Employers,
10 labor organizations, employment agencies, and licensing agencies that deny
11 employment opportunities and discriminate in employment against properly
12 qualified individuals solely because of their age, race, creed, color, disability, marital
13 or domestic partnership status, sex, national origin, ancestry, sexual orientation,
14 arrest record, conviction record, military service, or use or nonuse of lawful products
15 off the employer's premises during nonworking hours deprive those individuals of
16 the earnings that are necessary to maintain a just and decent standard of living.

History: 1977 c. 125; 1979 c. 319; 1981 c. 112, 334, 391; 1987 a. 63; 1991 a. 289, 310, 315; 1997 a. 112; 2007 a. 159.

17 **SECTION 9.** 111.31 (2) of the statutes is amended to read:

18 111.31 (2) It is the intent of the legislature to protect by law the rights of all
19 individuals to obtain gainful employment and to enjoy privileges free from
20 employment discrimination because of age, race, creed, color, disability, marital or
21 domestic partnership status, sex, national origin, ancestry, sexual orientation,

1 arrest record, conviction record, military service, or use or nonuse of lawful products
 2 off the employer's premises during nonworking hours, and to encourage the full,
 3 nondiscriminatory utilization of the productive resources of the state to the benefit
 4 of the state, the family, and all the people of the state. It is the intent of the legislature
 5 in promulgating this subchapter to encourage employers to evaluate an employee or
 6 applicant for employment based upon the employee's or applicant's individual
 7 qualifications rather than upon a particular class to which the individual may
 8 belong.

9 **History:** 1977 c. 125; 1979 c. 319; 1981 c. 112, 334, 391; 1987 a. 63; 1991 a. 289, 310, 315; 1997 a. 112; 2007 a. 159.

SECTION 10. 111.31 (3) of the statutes is amended to read:

10 111.31 (3) In the interpretation and application of this subchapter, and
 11 otherwise, it is declared to be the public policy of the state to encourage and foster
 12 to the fullest extent practicable the employment of all properly qualified individuals
 13 regardless of age, race, creed, color, disability, marital or domestic partnership
 14 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction
 15 record, military service, or use or nonuse of lawful products off the employer's
 16 premises during nonworking hours. Nothing in this subsection requires an
 17 affirmative action program to correct an imbalance in the work force. This
 18 subchapter shall be liberally construed for the accomplishment of this purpose.

19 **History:** 1977 c. 125; 1979 c. 319; 1981 c. 112, 334, 391; 1987 a. 63; 1991 a. 289, 310, 315; 1997 a. 112; 2007 a. 159.

SECTION 11. 111.32 (5) of the statutes is amended to read:

20 111.32 (5) "Employee" does not include any individual employed by his or her
 21 parents, spouse, state-registered domestic partner under s. 770.05, or child.

22 **History:** 1975 c. 31, 94, 275, 421; 1977 c. 29, 125, 196, 286; 1979 c. 319, 357; 1981 c. 96 s. 67; 1981 c. 112, 334, 391; 1983 a. 36; 1987 a. 149; 1991 a. 117; 1993 a. 107, 427; 1995 a. 27 s. 9130 (4); 1997 a. 3, 112, 283; 2007 a. 159.

SECTION 12. 111.32 (12) of the statutes is amended to read:

2

1 111.32 (12) "Marital or domestic partnership status" means the status of being
2 married, single, divorced, separated, or widowed or of being in a state-registered
3 domestic partnership under s. 770.05.

History: 1975 c. 31, 94, 275, 421; 1977 c. 29, 125, 196, 286; 1979 c. 319, 357; 1981 c. 96 s. 67; 1981 c. 112, 334, 391; 1983 a. 36; 1987 a. 149; 1991 a. 117; 1993 a. 107, 427; 1995 a. 27 s. 9130 (4); 1997 a. 3, 112, 283; 2007 a. 159.

4 **SECTION 13.** 111.321 of the statutes is amended to read:

5 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to 111.36,
6 no employer, labor organization, employment agency, licensing agency, or other
7 person may engage in any act of employment discrimination as specified in s. 111.322
8 against any individual on the basis of age, race, creed, color, disability, marital or
9 domestic partnership status, sex, national origin, ancestry, arrest record, conviction
10 record, military service, or use or nonuse of lawful products off the employer's
11 premises during nonworking hours.

History: 1981 c. 334; 1987 a. 63; 1991 a. 310; 1997 a. 112; 2007 a. 159.

12 **SECTION 14.** 111.345 of the statutes is amended to read:

13 **111.345 Marital or domestic partnership status; exceptions and special**
14 **cases.** Notwithstanding s. 111.322, it is not employment discrimination because of
15 marital or domestic partnership status to prohibit an individual from directly
16 supervising or being directly supervised by his or her spouse or state-registered
17 domestic partner under s. 770.05.

History: 1981 c. 334.

(END OF INSERT)

(INSERT 39-7GM)

30-24

18 **SECTION 15.** 224.77 (1) (o) of the statutes is amended to read:

19 224.77 (1) (o) In the course of practice as a mortgage banker, loan originator,
20 or mortgage broker, except in relation to housing designed to meet the needs of
21 elderly individuals, treated a person unequally solely because of sex, race, color,

1 handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national origin,
2 age, or ancestry, the person's lawful source of income, or the sex or marital or
3 domestic partnership status, as defined in s. 111.32 (12), of the person maintaining
4 a household.

History: 1987 a. 359; 1987 a. 403 ss. 182, 256; Stats. 1987 s. 440.77; 1993 a. 112; 1995 a. 27 ss. 6598 to 6600; Stats. 1995 s. 224.77; 1997 a. 145, 191, 237; 1999 a. 32, 82; 1999 a. 150 s. 672; 2003 a. 33, 260; 2007 a. 20.

(END OF INSERT)

(INSERT 43-2GM)

5 SECTION 16. 452.14 (3) (n) of the statutes is amended to read: X

6 452.14 (3) (n) Treated any person unequally solely because of sex, race, color,
7 handicap, disability, national origin, ancestry, marital or domestic partnership
8 status, or lawful source of income.

History: 1981 c. 94, 391; 1983 a. 27 s. 2202 (44); 1983 a. 354; 1985 a. 305; 1987 a. 399; 1989 a. 307, 341, 359; 1991 a. 32, 163; 1993 a. 127; 1995 a. 400; 2005 a. 87.

(END OF INSERT)

(INSERT 43-7GM)

9 SECTION 17. 632.35 of the statutes is amended to read: X

10 632.35 Prohibited rejection, cancellation and nonrenewal. No insurer
11 may cancel or refuse to issue or renew an automobile insurance policy wholly or
12 partially because of ~~one or more of the following characteristics of any person:~~ a
13 person's age, sex, residence, race, color, creed, religion, national origin, ancestry,
14 marital or domestic partnership status, or occupation.

History: 1975 c. 375; 1979 c. 102.

(END OF INSERT)

(INSERT 43-14GM)

15 SECTION 18. 756.001 (3) of the statutes is amended to read:

16 756.001 (3) No person who is qualified and able to serve as a juror may be
17 excluded from that service in any court of this state on the basis of sex, race, color,

1 sexual orientation, as defined in s. 111.32 (13m), disability, religion, national origin,
 2 marital or domestic partnership status, as defined in s. 111.32 (12), family status,
 3 lawful source of income, age, or ancestry or because of a physical condition.

History: 1991 a. 271; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997).

(END OF INSERT)

✓ (INSERT A-1-GMM)

✓ Under current law, if the head of a department or independent agency in state government finds any arbitrary discrimination on the basis of marital status, the head is required to take remedial action. This bill requires a department or independent agency head to take remedial action if he or she finds any arbitrary discrimination on the basis of domestic partnership status.

(END OF INSERT)

✓ (INSERT A-2-GMM)

✓ Under current law, no employer, labor organization, employment agency, licensing agency, or other person may discriminate in employment on the basis of marital status, which is defined as the status of being married, single, divorced, separated, or widowed. This bill prohibits employment discrimination on the basis of domestic partnership status.

(END OF INSERT)

✓ (INSERT A-3-GMM)

✓ Under current law, no person may discriminate in housing on the basis of marital status, and political subdivisions of this state are permitted to enact ordinances prohibiting such discrimination. This bill prohibits housing discrimination on the basis of domestic partnership status and permits political subdivisions to enact ordinances prohibiting such discrimination.

(END OF INSERT)

(INSERT A-4-GMM)

✓
CIRCUIT COURTS

✓ Under current law, no person who is qualified and able to serve as a juror may be excluded from that service on the basis of marital status. This bill prohibits exclusion from jury service on the basis of domestic partnership status.

(END OF INSERT)

(INSERT A-5-GMM)

AS ✓

Under current law, no insurer may cancel or refuse to issue or renew an automobile insurance policy because of a person's marital status. This bill prohibits an insurer from cancelling or refusing to issue or renew such a policy on the basis of domestic partnership status.

EDUCATION

HIGHER EDUCATION

X 2

Under current law, no student may be denied admission to, participation in, or the benefits of any service, program, course, or facility of the University of Wisconsin (UW) System or of the Technical College System because of the student's marital status. This bill prohibits such denial on the basis of a student's domestic partnership status.

OCCUPATIONAL REGULATION

Under current law, a mortgage broker, banker, or loan originator or a real estate broker, salesperson, or time-share salesperson may not treat a person unequally solely because of marital status. This bill prohibits those individuals from treating a person unequally solely because of domestic partnership status.

(END OF INSERT)

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1308/P2ins
PJK:.....

INSERT 44-20

- 1 *woff* shall contain the social security number of each individual who has a social
2 *X* security number and

(END OF INERT 44-20)

INSERT 44-21

- 3 *X woff* In addition, each individual shall present to the secretary satisfactory,
4 documentary proof of identification and residence.

(END OF INSERT 44-21)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1308/P2insrn
RPN:kjf:ph

1 insert 57- 23 X
2
3
4

5 **SECTION 1.** 867.03 (1g) (intro.) of the statutes is amended to read:

6 867.03 (1g) **GENERALLY.** (intro.) When a decedent leaves property subject to
7 administration in this state which does not exceed \$50,000 in value, any heir of the
8 decedent, surviving domestic partner, trustee of a revocable trust created by the
9 decedent, or person who was guardian of the decedent at the time of the decedent's
10 death may collect any money due the decedent, receive the property of the decedent,
11 and have any evidence of interest, obligation to, or right of the decedent transferred
12 to the affiant if the heir, surviving domestic partner, trustee, or guardian provides
13 to the person owing the money, having custody of the property, or acting as registrar
14 or transfer agent of the evidences of interest, obligation to, or right, or, if the property
15 is an interest in or lien on real property, provides to the register of deeds preliminary
16 (1m) if applicable and an affidavit in duplicate showing all of the following:

History: 1973 c. 43; 1975 c. 380 s. 5; 1979 c. 29; 1989 a. 234; 1993 a. 16, 205, 437; 1995 a. 27 ss. 7197b to 7199c, 9126 (19); 1997 a. 27; 1999 a. 9, 94; 2005 a. 216, 387; 2007 a. 20 s. 9121 (6) (a).

17 **SECTION 2.** 867.03 (1m) (a) of the statutes is amended to read:

18 867.03 (1m) (a) Whenever an heir, surviving domestic partner, trustee, or
19 person who was guardian of the decedent at the time of the decedent's death intends
20 to transfer a decedent's property by affidavit under sub. (1g) and the decedent or the
21 decedent's spouse ever received the family care benefit under s. 46.286, medical
22 assistance under subch. IV of ch. 49, long-term community support services funded
23 under s. 46.27 (7) or aid under s. 49.68, 49.683 or 49.685, the heir, surviving domestic

1 partner, trustee, or person who was guardian of the decedent at the time of the
 2 decedent's death shall give notice to the department of health services of his or her
 3 intent. The notice shall include the information in the affidavit under sub. (1g) and
 4 the heir, surviving domestic partner, trustee, or person who was guardian of the
 5 decedent at the time of the decedent's death shall give the notice by certified mail,
 6 return receipt requested.

History: 1973 c. 43; 1975 c. 380 s. 5; 1979 c. 29; 1989 a. 234; 1993 a. 16, 205, 437; 1995 a. 27 ss. 7197b to 7199c, 9126 (19); 1997 a. 27; 1999 a. 9, 94; 2005 a. 216, 387; 2007 a. 20 s. 9121 (6) (a).

7 **SECTION 3.** 867.03 (1m) (b) of the statutes is amended to read:

8 867.03 (1m) (b) An heir, surviving domestic partner, trustee, or person who was
 9 guardian of the decedent at the time of the decedent's death who files an affidavit
 10 under sub. (1g) that states that the decedent or the decedent's spouse received the
 11 family care benefit under s. 46.286, medical assistance under subch. IV of ch. 49,
 12 long-term community support services funded under s. 46.27 (7), or aid under s.
 13 49.68, 49.683, or 49.685 shall attach to the affidavit the proof of mail delivery of the
 14 notice required under par. (a) showing a delivery date that is not less than 10 days
 15 before the day on which the heir, surviving domestic partner, trustee, or person who
 16 was guardian of the decedent at the time of the decedent's death files the affidavit.

History: 1973 c. 43; 1975 c. 380 s. 5; 1979 c. 29; 1989 a. 234; 1993 a. 16, 205, 437; 1995 a. 27 ss. 7197b to 7199c, 9126 (19); 1997 a. 27; 1999 a. 9, 94; 2005 a. 216, 387; 2007 a. 20 s. 9121 (6) (a).

17 **SECTION 4.** 867.03 (2) of the statutes is amended to read:

18 867.03 (2) RELEASE OF LIABILITY OF TRANSFEROR. Upon the transfer to the heir,
 19 surviving domestic partner, trustee, or person who was guardian of the decedent at
 20 the time of the decedent's death furnishing the affidavit with an attached proof of
 21 mail delivery if required under sub. (1m) (b), the transferor is released to the same

1 extent as if the transfer had been made to the personal representative of the estate
2 of the decedent.

History: 1973 c. 43; 1975 c. 380 s. 5; 1979 c. 29; 1989 a. 234; 1993 a. 16, 205, 437; 1995 a. 27 ss. 7197b to 7199c, 9126 (19); 1997 a. 27; 1999 a. 9, 94; 2005 a. 216, 387; 2007 a. 20 s. 9121 (6) (a).

3 **SECTION 5. 867.03 (2g)** of the statutes is amended to read:

4 **867.03 (2g) OBLIGATION OF AFFIANT.** By accepting the decedent's property under
5 this section the heir, surviving domestic partner, trustee, or guardian assumes a duty
6 to apply the property transferred for the payment of obligations according to
7 priorities established under s. 859.25 and to distribute any balance to those persons
8 designated in the appropriate governing instrument, as defined in s. 854.01, of the
9 decedent or if there is no governing instrument, according to the rules of intestate
10 succession under ch. 852. An heir, surviving domestic partner, or guardian may
11 publish a notice to creditors in the same manner and with the same effect as a trustee
12 under s. 701.065. This subsection does not prohibit any appropriate person from
13 requesting administration of the decedent's estate under s. 856.07 or ch. 865.

History: 1973 c. 43; 1975 c. 380 s. 5; 1979 c. 29; 1989 a. 234; 1993 a. 16, 205, 437; 1995 a. 27 ss. 7197b to 7199c, 9126 (19); 1997 a. 27; 1999 a. 9, 94; 2005 a. 216, 387; 2007 a. 20 s. 9121 (6) (a).

INSERT PJHANALYSIS:

CRIMES

Current law prohibits a person from claiming, as a defense in a criminal case, that he or she was coerced to do the criminal act by his or her spouse. Under this bill, no person may claim coercion by his or her registered domestic partner as a defense in a criminal case.

Under current law, no one may harbor a felon from law enforcement, except that a person who is the spouse or other family member of the felon may not be prosecuted for harboring him or her. Under the bill, no one who is the registered domestic partner of a felon may be prosecuted for harboring him or her.

Under current law, an enhanced penalty is imposed on a person who commits certain criminal acts against a family member, including a spouse, of a victim, judge or witness in a case against the person or against a family member, including a spouse, of a revenue employee, or an employee of the department of commerce or workforce development. This bill imposes the same enhanced penalty on a person who does or threatens to do any of the following:

1. Stalk, commit battery against, intimidate, or damage the property of a registered domestic partner of a victim or witness to a crime.
2. Commit battery against or damage the property of a registered domestic partner of a judge or an employee of the departments of revenue, workforce development, or commerce.

Under current law, a person who commits certain acts against a person who is a spouse, former spouse, other parent of the person's child, or with whom the person formerly lived is guilty of committing domestic violence. Current law provides assistance to victims of domestic violence and imposes enhanced penalties and restrictions on a person who commits an act of domestic violence against his or her spouse or former spouse. Current law also allows for a person who commits certain acts of domestic violence to enter into a deferred prosecution for the acts if the person complies with conditions imposed under the deferred prosecution agreement. This bill expands the definition of a victim of domestic violence to include a registered domestic partner or a former registered domestic partner.

Current law provides certain rights to victims of crime and their family members, including spouses, before, during, and after the criminal prosecution of the person who committed the crime against the victim. These rights include the right to cooperation by law enforcement agencies, to attend court hearings involving the person who committed the crime against the victim, to be kept informed of developments in the case, including plea bargain offers, and to read an impact statement at the sentencing hearing of the person who committed the crime. This bill affords all of the rights conferred on the spouses of victims to the registered domestic partners of victims.

INSERT 60.5:

SECTION 1. 939.46 (2) of the statutes is amended to read:

939.46 (2) It is no defense to a prosecution of a married person or a person who is a state-registered domestic partner that the alleged crime was committed by command of the spouse or state-registered domestic partner nor is there any presumption of coercion when a crime is committed by a married person or a person who is a state-registered domestic partner in the presence of the spouse or state-registered domestic partner.

History: 1975 c. 94; 1987 a. 399; 2007 a. 116.

SECTION 2. 940.201 (1) (a) of the statutes is amended to read:

940.201 (1) (a) "Family member" means a spouse, state-registered domestic partner, child, stepchild, foster child, treatment foster child, parent, sibling or grandchild.

History: 1997 a. 143; 2001 a. 109.

SECTION 3. 940.203 (1) (a) of the statutes is amended to read:

940.203 (1) (a) "Family member" means a parent, spouse, state-registered domestic partner, sibling, child, stepchild, foster child or treatment foster child.

History: 1993 a. 50, 446; 2001 a. 61, 109.

SECTION 4. 940.205 (1) of the statutes is amended to read:

940.205 (1) In this section, "family member" means a parent, spouse, state-registered domestic partner, sibling, child, stepchild, foster child or treatment foster child.

History: 1985 a. 29; 1993 a. 446; 2001 a. 109.

SECTION 5. 940.207 (1) of the statutes is amended to read:

940.207 (1) In this section, "family member" means a parent, spouse, state-registered domestic partner, sibling, child, stepchild, foster child or treatment foster child.

History: 1993 a. 86, 446; 1995 a. 27 ss. 7227 to 7229, 9116 (5), 9130 (4); 1997 a. 3; 2001 a. 109.

SECTION 6. 940.32 (1) (cb) of the statutes is amended to read:

940.32 (1) (cb) "Member of a family" means a spouse, state-registered domestic partner, parent, child, sibling, or any other person who is related by blood or adoption to another.

History: 1993 a. 96, 496; 2001 a. 109; 2003 a. 222, 327; 2005 a. 277.

SECTION 7. 940.43 (1) of the statutes is amended to read:

940.43 (1) Where the act is accompanied by force or violence or attempted force or violence, upon the witness, or the spouse, state-registered domestic partner, child, stepchild, foster child, treatment foster child, parent, sibling or grandchild of the witness or any person sharing a common domicile with the witness.

History: 1981 c. 118; 1997 a. 143; 2001 a. 109; 2005 a. 280; 2007 a. 96.

SECTION 8. 940.45 (1) of the statutes is amended to read:

940.45 (1) Where the act is accompanied by force or violence or attempted force or violence, upon the victim, or the spouse, state-registered domestic partner, child, stepchild, foster child, treatment foster child, parent, sibling or grandchild of the victim or any person sharing a common domicile with the victim.

History: 1981 c. 118; 1997 a. 143; 2001 a. 109; 2007 a. 96.

SECTION 9. 943.011 (1) (a) of the statutes is amended to read:

943.011 (1) (a) "Family member" means a spouse, state-registered domestic partner, child, stepchild, foster child, treatment foster child, parent, sibling or grandchild.

History: 1997 a. 143; 2001 a. 109.

SECTION 10. 943.013 (1) (a) of the statutes is amended to read:

943.013 (1) (a) "Family member" means a parent, spouse, state-registered domestic partner, sibling, child, stepchild, foster child or treatment foster child.

History: 1993 a. 50, 446; 2001 a. 61, 109.

SECTION 11. 943.015 (1) of the statutes is amended to read:

943.015 (1) In this section, "family member" means a parent, spouse, state-registered domestic partner, sibling, child, stepchild, foster child or treatment foster child.

History: 1985 a. 29; 1993 a. 446; 2001 a. 109.

SECTION 12. 943.017 (2m) (a) 1. of the statutes is amended to read:

943.017 (2m) (a) 1. "Family member" means a spouse, state-registered domestic partner, child, stepchild, foster child, treatment foster child, parent, sibling or grandchild.

History: 1995 a. 24; 1997 a. 35, 143; 2001 a. 16, 109.

SECTION 13. 946.47 (3) of the statutes is amended to read:

946.47 (3) This section does not apply to the felon, to the felon's spouse or state-registered domestic partner or to a parent, grandparent, child, grandchild, brother or sister of the felon, whether by blood, marriage or adoption.

History: 1977 c. 173; 1993 a. 486; 1999 a. 162; 2001 a. 109.

SECTION 14. 950.02 (3) of the statutes is amended to read:

950.02 (3) "Family member" means spouse, state-registered domestic partner, minor child, adult child, sibling, parent, or legal guardian.

History: 1979 c. 219; 1983 a. 197; 1985 a. 311; 1995 a. 77, 310; 1997 a. 35, 181; 1999 a. 32; 2005 a. 387, 419.

SECTION 15. 968.075 (1) (a) of the statutes (intro) is amended to read:

(Intro.)

968.075 (1) (a) "Domestic abuse" means any of the following engaged in by an adult person against his or her spouse or state-registered domestic partner or former spouse or former state-registered domestic partner, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

History: 1987 a. 346; 1989 a. 293; 1993 a. 319; 1995 a. 304; 2005 a. 104.

INSERT 60.24:

SECTION 16. 971.37 (1m) (a) 2. of the statutes is amended to read:

971.37 (1m) (a) 2. An adult accused of or charged with a criminal violation of s. 940.19, 940.20 (1m), 940.201, 940.225, 940.23, 940.285, 940.30, 940.42, 940.43, 940.44, 940.45, 940.48, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01, 947.012 or 947.0125 and the conduct constituting the violation involved an act by the adult person against his or her spouse or state-registered domestic partner or former spouse or former state-registered domestic partner, against an adult with whom the adult person resides or formerly resided or against an adult with whom the adult person has created a child.

History: 1979 c. 111; 1981 c. 88, 366; 1983 a. 204; 1987 a. 27; 1987 a. 332 s. 64; 1991 a. 39; 1993 a. 227, 262, 319; 1995 a. 343, 353, 456; 1997 a. 35, 143; 2003 a. 139; 2005 a. 277.

SECTION 17. 971.37 (1m) (b) of the statutes is amended to read:

971.37 (1m) (b) The agreement shall provide that the prosecution will be suspended for a specified period if the person complies with conditions specified in the agreement. The agreement shall be in writing, signed by the district attorney or his or her designee and the person, and shall provide that the person waives his or her right to a speedy trial and that the agreement will toll any applicable civil or criminal statute of limitations during the period of the agreement, and, furthermore, that the person shall file with the district attorney a monthly written report certifying his or her compliance with the conditions specified in the agreement. The district attorney shall provide the spouse or state-registered domestic partner of the accused person and the alleged victim or the parent or guardian of the alleged victim with a copy of the agreement.

History: 1979 c. 111; 1981 c. 88, 366; 1983 a. 204; 1987 a. 27; 1987 a. 332 s. 64; 1991 a. 39; 1993 a. 227, 262, 319; 1995 a. 343, 353, 456; 1997 a. 35, 143; 2003 a. 139; 2005 a. 277.

SECTION 18. 973.055 (1) (a) 2. of the statutes is amended to read:

973.055 (1) (a) 2. The court finds that the conduct constituting the violation under subd. 1. involved an act by the adult person against his or her spouse or

state-registered domestic partner or former spouse or former state-registered domestic partner, against an adult with whom the adult person resides or formerly resided or against an adult with whom the adult person has created a child; or

History: 1979 c. 111; 1979 c. 221 s. 2202 (20); 1979 c. 355; 1981 c. 20 s. 2202 (20) (s); 1983 a. 27 s. 2202 (20); 1987 a. 27; 1989 a. 31; 1991 a. 39; 1993 a. 262, 319; 1995 a. 27, 201, 343, 353; 1997 a. 27, 35, 143; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16; 2003 a. 33, 139, 225, 326, 327; 2007 a. 20, 97, 127.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1308/P2dnrn

RPN: *ljf*

↑ stays

Date

↓ stays
~~Attention: Caitlin Frederiek~~

X
X
X
The draft includes provisions relating to the transfer of vehicles, boats, and manufactured homes. We received somewhat conflicting drafting instructions regarding manufactured homes which resulted in the provisions concerning manufactured homes being treated differently than those for vehicles and boats. In this draft, we have made the provisions consistent for all three of these types of transfers. See ss. 30.541 (3) (d) 2. a. and d., 101.9208 (4m), 101.921 (4) (b) 1. (intro.) c., (1m), and (4) (b) 4., and 342.17 (4) (b) 1. (intro.) and c. and 4., as amended in this draft. In this draft when a transfer provision applies to a surviving spouse for these items, we have extended the application to include a surviving domestic partner.

X
These sections referred to in the preceding paragraph make reference to s. 867.03 (1g), regarding transfer of decedent's property by affidavit, but that section does not mention surviving spouses, so it was not amended in the previous version of this draft. Instead, s. 867.03 in current law refers to "heirs," which is defined in s. 851.09 to include surviving spouses. Section 851.09 is not amended in this draft, so it is necessary to add "surviving domestic partner" to s. 867.03, which I did in this draft.

Please review these provisions carefully to make sure that they achieve your intent. If you want any changes please call me to discuss what you want.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1308/P2dngm
GMM... RPN

Date

Don't need

23

Caitlin:

In reviewing the statutes relating to discrimination on the basis of marital status, I discovered that not only employment discrimination is prohibited on that basis. In addition, any of the following discrimination is prohibited on that basis:

1. Education discrimination by the UW under s. 36.12 (1) and by the Technical College System under s. 38.12 (1).
2. Housing discrimination under ss. 66.1011 (1) and 106.50 (1) (1m) (h) and (nm).
3. Mortgage discrimination under s. 224.77 (1) (o) and discrimination by real estate agents under s. 452.14 (3) (n).
4. Insurance discrimination under s. 632.35.
5. Discrimination in jury duty under s. 756.001 (3).
6. Discrimination by state agencies under s. 15.04 (1) (g).

Do you want to add domestic partnership status to any of these forms of discrimination?

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1308/P2dn
RPN:kjf:ph

January 24, 2009

Attention: Caitlin Frederick

The draft includes provisions relating to the transfer of vehicles, boats, and manufactured homes. We received somewhat conflicting drafting instructions regarding manufactured homes which resulted in the provisions concerning manufactured homes being treated differently than those for vehicles and boats. In this draft, we have made the provisions consistent for all three of these types of transfers. See ss. 30.541 (3) (d) 2. a. and d., 101.9208 (4m), 101.9211 (4) (b) 1. (intro.) c., 1m., and 4., and 342.17 (4) (b) 1. (intro.) and c. and 4., as amended in this draft. In this draft when a transfer provision applies to a surviving spouse for these items, we have extended the application to include a surviving domestic partner.

These sections referred to in the preceding paragraph make reference to s. 867.03 (1g), regarding transfer of decedent's property by affidavit, but that section does not mention surviving spouses, so it was not amended in the previous version of this draft. Instead, s. 867.03 in current law refers to "heirs," which is defined in s. 851.09 to include surviving spouses. Section 851.09 is not amended in this draft, so it is necessary to add "surviving domestic partner" to s. 867.03, which I did in this draft.

Please review these provisions carefully to make sure that they achieve your intent. If you want any changes please call me to discuss what you want.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.wisconsin.gov

Barman, Mike

From: Barman, Mike
Sent: Monday, January 26, 2009 8:27 AM
To: Aaron Gary; Becky Tradewell; Bruce Hoesly; Cathlene Hanaman; Christopher Sundberg; Debora Kennedy; Eric Mueller; Gordon Malaise; Jeffery Kuesel; Joseph Kreye; Marc Shovers; Mark Kunkel; Mary Gibson-Glass; Pam Kahler; Peggy Hurley; Peter Grant; Rick Champagne; Robert Nelson; Robin Kite; Robin Ryan; Steve Miller; Tamara Dodge; Tracy Kuczenski
Subject: LRB-1308/P2 (attached - for your review) (PJK's Domestic Partnership Registry Draft)
Attachments: 09-1308/P2; 09-1308/P2dn



09-1308P2.pdf
(274 KB)



09-1308P2dn.pdf
(10 KB)

Mike Barman (Senior Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

Champagne, Rick

From: Frederick, Caitlin - DOA [caitlin.frederick@wisconsin.gov]
Sent: Wednesday, January 28, 2009 9:54 AM
To: Champagne, Rick
Subject: RE:

Yes.

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Wednesday, January 28, 2009 9:52 AM
To: Frederick, Caitlin - DOA
Cc: Kahler, Pam - LEGIS
Subject:

Question for you on 1308, the domestic partner draft. Did you want me to add the Initial Applicability provision for health insurance under ch. 40 that I had in 1175? It read:

SECTION 9315. Initial applicability; Employee Trust Funds.

(1) DOMESTIC PARTNER BENEFITS FOR STATE EMPLOYEES AND ANNUITANTS. The treatment of section 40.02 (21c) and (21d) of the statutes, the renumbering and amendment of section 40.02 (20) of the statutes, and the creation of section 40.02 (20) (b) of the statutes first apply to coverage under group insurance plans offered by the group insurance board on January 1, 2011.