1 **SECTION 81.** 252.16 (1) (ar) of the statutes is amended to read:

2 252.16 **(1)** (ar) "Dependent" means a spouse <u>or domestic partner under ch. 770</u>,
3 an unmarried child under the age of 19 years, an unmarried child who is a full-time
4 student under the age of 21 years and who is financially dependent upon the parent,
5 or an unmarried child of any age who is medically certified as disabled and who is
6 dependent upon the parent.

7 **SECTION 82.** 252.17 (3) (d) of the statutes is amended to read:

8 252.17 **(3)** (d) Is covered under a group health plan through his or her
9 employment and pays part or all of the premium for that coverage, including any
10 premium for coverage of the individual's spouse <u>or domestic partner under ch. 770</u>
11 and dependents.

12 **SECTION 83.** 252.17 (4) (a) of the statutes is amended to read:

13 252.17 **(4)** (a) Except as provided in pars. (b), (c)<u>,</u> and (d), if an individual
14 satisfies sub. (3), the department shall pay the amount of each premium payment for
15 coverage under the group health plan under sub. (3) (d) that is due from the
16 individual on or after the date on which the individual becomes eligible for a subsidy
17 under sub. (3). The department may not refuse to pay the full amount of the
18 individual's contribution to each premium payment because the coverage that is
19 provided to the individual who satisfies sub. (3) includes coverage of the individual's
20 spouse <u>or domestic partner under ch. 770</u> and dependents. Except as provided in par.
21 (b), the department shall terminate the payments under this section when the
22 individual's unpaid medical leave ends, when the individual no longer satisfies sub.
23 (3) or upon the expiration of 29 months after the unpaid medical leave began,
24 whichever occurs first.

25 **SECTION 84.** 252.17 (4) (d) of the statutes is amended to read:

1 252.17 **(4)** (d) For an individual who satisfies sub. (3) and who has a family
2 income, as defined by rule under sub. (6) (a), that exceeds 200% but does not exceed
3 300% of the federal poverty line, as defined under 42 USC 9902 (2), for a family the
4 size of the individual's family, the department shall pay a portion of the amount of
5 each premium payment for the individual's coverage under the group health plan
6 under sub. (3) (d). The portion that the department pays shall be determined
7 according to a schedule established by the department by rule under sub. (6) (c). The
8 department shall pay the portion of the premium determined according to the
9 schedule regardless of whether the individual's coverage under the group health
10 plan under sub. (3) (d) includes coverage of the individual's spouse <u>or domestic</u>
11 <u>partner under ch. 770</u> and dependents.

12 **SECTION 85.** 301.046 (4) (a) 1. of the statutes is amended to read:

13 301.046 **(4)** (a) 1. "Member of the family" means spouse, <u>domestic partner</u>
14 <u>under ch. 770,</u> child, sibling, parent or legal guardian.

15 **SECTION 86.** 301.048 (4m) (a) 1. of the statutes is amended to read:

16 301.048 **(4m)** (a) 1. "Member of the family" means spouse, <u>domestic partner</u>
17 <u>under ch. 770,</u> child, sibling, parent or legal guardian.

18 **SECTION 87.** 301.38 (1) (a) of the statutes is amended to read:

19 301.38 **(1)** (a) "Member of the family" means spouse, <u>domestic partner under</u>
20 <u>ch. 770,</u> child, sibling, parent or legal guardian.

21 **SECTION 88.** 301.46 (3) (a) 1. of the statutes is amended to read:

22 301.46 **(3)** (a) 1. "Member of the family" means spouse, <u>domestic partner under</u>
23 <u>ch. 770,</u> child, parent, sibling or legal guardian.

24 **SECTION 89.** 302.105 (1) (a) of the statutes is amended to read:

302.105 **(1)** (a) "Member of the family" means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian.

SECTION 90. 304.06 (1) (a) 1. of the statutes is amended to read:

304.06 **(1)** (a) 1. "Member of the family" means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian.

SECTION 91. 304.09 (1) (a) of the statutes is amended to read:

304.09 **(1)** (a) "Member of the family" means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian.

SECTION 92. 321.62 (11) (a) of the statutes is amended to read:

321.62 **(11)** (a) No eviction may be made during the period of state active duty in respect to any premises for which the agreed rent does not exceed the amount specified in 50 USC App. 531, occupied chiefly for dwelling purposes by the spouse, children, domestic partner under ch. 770, or other dependents of a service member who is in state active duty, except upon order of a court in an action affecting the right of possession.

SECTION 93. 342.14 (3m) of the statutes is amended to read:

342.14 **(3m)** Upon filing an application under sub. (1) or (3), a supplemental title fee of $7.50 by the owner of the vehicle, except that this fee shall be waived with respect to an application under sub. (3) for transfer of a decedent's interest in a vehicle to his or her surviving spouse or domestic partner under ch. 770. The fee specified under this subsection is in addition to any other fee specified in this section. This subsection does not apply to an application for a certificate of title for a neighborhood electric vehicle.

SECTION 94. 342.17 (4) (b) 1. (intro.) and c. and 4. of the statutes are amended to read:

342.17 **(4)** (b) 1. (intro.) The department shall transfer the decedent's interest in any vehicle to his or her surviving spouse or domestic partner under ch. 770 upon receipt of the title executed by the surviving spouse or domestic partner and a statement by the spouse or domestic partner which shall state:

c. That the spouse or domestic partner is personally liable for the decedent's debts and charges to the extent of the value of the vehicle, subject to s. 859.25.

4. The limit in subd. 3. does not apply if the surviving spouse or domestic partner is proceeding under s. 867.03 (1g) and the total value of the decedent's property subject to administration in the state, including the vehicles transferred under this paragraph, does not exceed $50,000.

SECTION 95. 614.10 (2) (c) 3. of the statutes is amended to read:

614.10 **(2)** (c) 3. Notwithstanding s. 614.01 (1) (a) 2., on the application of an employee specified in subd. 2., provide insurance benefits to the employee's spouse or domestic partner under ch. 770 or a child of the employee who receives financial services or support from the employee.

SECTION 96. 700.19 (2m) of the statutes is created to read:

700.19 **(2m)** DOMESTIC PARTNERS. If persons named as owners in a document of title, transferees in an instrument of transfer, or buyers in a bill of sale are described in the document, instrument, or bill of sale as domestic partners under ch. 770, or are in fact domestic partners under ch. 770, they are joint tenants, unless the intent to create a tenancy in common is expressed in the document, instrument, or bill of sale.

SECTION 97. Chapter 770 of the statutes is created to read:

CHAPTER 770

DOMESTIC PARTNERSHIP

1 **770.01 Definitions.** In this chapter:

2 **(1)** "Domestic partner" means an individual who has signed and filed a
3 declaration of domestic partnership in the office of the register of deeds of the county
4 in which he or she resides.

5 **(2)** "Domestic partnership" means the legal relationship that is formed
6 between 2 individuals under this chapter.

7 **770.05 Criteria for forming a domestic partnership.** Two individuals may
8 form a domestic partnership if they satisfy all of the following criteria:

9 **(1)** Each individual is at least 18 years old and capable of consenting to the
10 domestic partnership.

11 **(2)** Neither individual is married to, or in a domestic partnership with, another
12 individual.

13 **(3)** The 2 individuals share a common residence. Two individuals may share
14 a common residence even if any of the following applies:

15 (a) Only one of the individuals has legal ownership of the residence.

16 (b) One or both of the individuals have one or more additional residences not
17 shared with the other individual.

18 (c) One of the individuals leaves the common residence with the intent to
19 return.

20 **(4)** The 2 individuals are not nearer of kin to each other than 2nd cousins,
21 whether of the whole or half blood or by adoption.

22 **(5)** The individuals are members of the same sex.

23 **770.07 Application.** **(1)** (a) Individuals who wish to form a domestic
24 partnership shall apply for a declaration of domestic partnership to the county clerk

of the county in which at least one of the individuals has resided for at least 30 days immediately before applying.

(b) 1. Except as provided in subd. 2., the county clerk may not issue a declaration of domestic partnership until at least 5 days after receiving the application for the declaration of domestic partnership.

2. The county clerk may, at his or her discretion, issue a declaration of domestic partnership less than 5 days after application if the applicant pays an additional fee of not more than $10 to cover any increased processing cost incurred by the county. The county clerk shall pay this fee into the county treasury.

(c) No declaration of domestic partnership may be issued unless the application for it is subscribed to by the parties intending to form the domestic partnership; it contains the social security number of each party who has a social security number; and it is filed with the clerk who issues the declaration of domestic partnership.

(d) 1. Each party shall present satisfactory, documentary proof of identification and residence and shall swear, or affirm, to the application before the clerk who is to issue the declaration of domestic partnership. In addition to the social security number of each party who has a social security number, the application shall contain such informational items as the department of health services directs. The portion of the application form that is collected for statistical purposes only shall indicate that the address of an applicant may be provided by a county clerk to a law enforcement officer under the conditions specified under s. 770.18 (2).

2. Each applicant shall exhibit to the clerk a certified copy of a birth certificate, and each applicant shall submit a copy of any judgment, certificate of termination of domestic partnership, or death certificate affecting the domestic partnership status. If any applicable birth certificate, death certificate, notice of termination of

domestic partnership, or judgment is unobtainable, other satisfactory documentary proof may be presented instead. Whenever the clerk is not satisfied with the documentary proof presented, he or she shall submit the proof, for an opinion as to its sufficiency, to a judge of a court of record in the county of application.

(2) If sub. (1) and s. 770.05 are complied with, the county clerk shall issue a declaration of domestic partnership. With each declaration of domestic partnership the county clerk shall provide a pamphlet describing the causes and effects of fetal alcohol syndrome. After the application for the declaration of domestic partnership is filed, the clerk shall, upon the sworn statement of either of the applicants, correct any erroneous, false, or insufficient statement in the application that comes to the clerk's attention and shall notify the other applicant of the correction, as soon as reasonably possible.

770.10 Completion and filing of declaration. In order to form the legal status of domestic partners, the individuals shall complete the declaration of domestic partnership, sign the declaration, having their signatures acknowledged before a notary, and submit the declaration to the register of deeds of the county in which they reside. The register of deeds shall record the declaration and forward the original to the state registrar of vital statistics.

770.12 Terminating a domestic partnership. (1) (a) A domestic partner may terminate the domestic partnership by filing a completed notice of termination of domestic partnership form with the county clerk who issued the declaration of domestic partnership and paying the fee established under s. 770.17. The notice must be signed by one or both domestic partners and notarized.

(b) If the notice under par. (a) is signed by only one of the domestic partners, that individual must also file with the county clerk an affidavit stating either of the following:

1. That the other domestic partner has been served in writing, in the manner provided under s. 801.11, that a notice of termination of domestic partnership is being filed with the county clerk.

2. That the domestic partner seeking termination has been unable to locate the other domestic partner after making reasonable efforts and that notice to the other domestic partner has been made by publication as provided in sub. (2).

(2) If a domestic partner who is seeking to terminate the domestic partnership is unable to find the other domestic partner after making reasonable efforts, the domestic partner seeking termination may provide notice by publication in a newspaper of general circulation in the county in which the residence most recently shared by the domestic partners is located. The notice need not be published more than one time.

(3) Upon receiving a completed, signed, and notarized notice of termination of domestic partnership, the affidavit under sub. (1) (b) if required, and the fee established under s. 770.17, the county clerk shall issue to the domestic partner filing the notice of termination a certificate of termination of domestic partnership. The domestic partner shall submit the certificate of termination of domestic partnership to the register of deeds of the county in which the declaration of domestic partnership is recorded. The register of deeds shall record the certificate and forward the original to the state registrar of vital statistics.

(4) (a) Except as provided in par. (b), the termination of a domestic partnership is effective 90 days after the certificate of termination of domestic partnership is recorded under sub. (3).

(b) If a party to a domestic partnership enters into a marriage that is recognized as valid in this state, the domestic partnership is automatically terminated on the date of the marriage.

770.15 Forms. (1) The application and declaration of domestic partnership under s. 770.07 and the notice of termination of domestic partnership and certificate of termination of domestic partnership under s. 770.12 shall contain such information as the department of health services determines is necessary. The form for the declaration of domestic partnership shall require both individuals forming a domestic partnership to sign the form and attest to satisfying all of the criteria under s. 770.05 (1) to (5).

(2) The department of health services shall prepare and distribute forms under sub. (1) in sufficient quantities to each county clerk.

770.17 Fees to county clerk. Each county clerk shall receive as a fee for each declaration of domestic partnership issued and for each certificate of termination of domestic partnership issued the same amount that the clerk receives for issuing a marriage license under s. 765.15. Of the amount that the clerk receives under this section, the clerk shall pay into the state treasury the same amount that the clerk pays into the state treasury from the fee collected for issuing a marriage license. The remainder shall become a part of the funds of the county. For each declaration of domestic partnership issued and for each certificate of termination of domestic partnership issued, the clerk shall also receive a standard notary fee in the same amount that the clerk receives as a standard notary fee in connection with issuing

1 a marriage license and that may be retained by the clerk if the clerk is operating on
2 a fee or part-fee basis but which otherwise shall become part of the funds of the
3 county.

4 **770.18 Records. (1)** The county clerk shall keep among the records in the
5 office a suitable book called the declaration of domestic partnership docket and shall
6 enter therein a complete record of the applications for and the issuing of all
7 declarations of domestic partnership, and of all other matters which the clerk is
8 required by this chapter to ascertain related to the rights of any person to obtain a
9 declaration of domestic partnership. An application may be recorded by entering
10 into the docket the completed application form, with any portion collected only for
11 statistical purposes removed. The declaration of domestic partnership docket shall
12 be open for public inspection or examination at all times during office hours.

13 **(2)** A county clerk may provide the name of a declaration of domestic
14 partnership applicant and, from the portion of the application form that is collected
15 for statistical purposes, as specified under sub. (1), may provide the address of the
16 declaration of domestic partnership applicant to a law enforcement officer, as defined
17 in s. 51.01 (11). A county clerk shall provide the name and, if it is available, the
18 address, to a law enforcement officer who requests, in writing, the name and address
19 for the performance of an investigation or the service of a warrant. If a county clerk
20 has not destroyed the portion of the declaration of domestic partnership application
21 form that is collected for statistical purposes, he or she shall keep the information
22 on the portion confidential, except as authorized under this subsection. If a written
23 request is made by a law enforcement officer under this subsection, the county clerk
24 shall keep the request with the declaration of domestic partnership application form.

If the county clerk destroys the declaration of domestic partnership application form, he or she shall also destroy the written request.

SECTION 98. 851.08 of the statutes is created to read:

851.08 Domestic partner. "Domestic partner" has the meaning given in s. 770.01 (1) and "domestic partnership" has the meaning given in s. 770.01 (2).

SECTION 99. 851.17 of the statutes is amended to read:

851.17 Net estate. "Net estate" means all property subject to administration less the property selected by the surviving spouse <u>or surviving domestic partner</u> under s. 861.33, the allowances made by the court under ss. 861.31, 861.35 and 861.41 except as those allowances are charged by the court against the intestate share of the recipient, administration, funeral and burial expenses, the amount of claims paid and federal and state estate taxes payable out of such property.

SECTION 100. 851.295 of the statutes is created to read:

851.295 Surviving domestic partner. "Surviving domestic partner" means a person who was in a domestic partnership under ch. 770 with the decedent, at the time of the decedent's death.

SECTION 101. 852.01 (1) (a) (intro.), 1. and 2. (intro.) and b., (b), (c), (d) and (f) (intro.) of the statutes are amended to read:

852.01 **(1)** (a) (intro.) To the spouse <u>or domestic partner</u>:

1. If there are no surviving issue of the decedent, or if the surviving issue are all issue of the surviving spouse <u>or surviving domestic partner</u> and the decedent, the entire estate.

2. (intro.) If there are surviving issue one or more of whom are not issue of the surviving spouse <u>or surviving domestic partner</u>, one-half of decedent's property other than the following property:

b. The decedent's interest in property held equally and exclusively with the surviving spouse or surviving domestic partner as tenants in common.

(b) To the issue, per stirpes, the share of the estate not passing to the spouse or surviving domestic partner, under par. (a), or the entire estate if there is no surviving spouse or surviving domestic partner.

(c) If there is no surviving spouse, surviving domestic partner, or issue, to the parents.

(d) If there is no surviving spouse, surviving domestic partner, issue, or parent, to the brothers and sisters and the issue of any deceased brother or sister per stirpes.

(f) (intro.) If there is no surviving spouse, surviving domestic partner, issue, parent, or issue of a parent, to the grandparents and their issue as follows:

SECTION 102. 852.09 of the statutes is amended to read:

852.09 Assignment of home to surviving spouse or surviving domestic partner. If the intestate estate includes an interest in a home, assignment of that interest to the surviving spouse or surviving domestic partner is governed by s. 861.21.

SECTION 103. 853.11 (2m) and (3) of the statutes are amended to read:

853.11 **(2m)** PREMARITAL OR PREDOMESTIC PARTNERSHIP WILL. Entitlements of a surviving spouse or surviving domestic partner under a decedent's will that was executed before marriage to the surviving spouse or before recording of the domestic partnership under ch. 770 are governed by s. 853.12.

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

SECTION 104. 853.12 (title) of the statutes is amended to read:

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

1 **SECTION 105.** 853.12 (1), (2) (intro.) and (a), (3) (a) and (b) and (4) (a) of the
2 statutes are amended to read:

3 853.12 **(1)** ENTITLEMENT OF SURVIVING SPOUSE OR SURVIVING DOMESTIC PARTNER.
4 Subject to sub. (3), if the testator married the surviving spouse or recorded a domestic
5 partnership under ch. 770 with the surviving domestic partner after the testator
6 executed his or her will, the surviving spouse or surviving domestic partner is
7 entitled to a share of the probate estate.

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

13 (a) All devises to or for the benefit of the testator's children who were born
14 before the marriage to the surviving spouse or the domestic partnership with the
15 surviving domestic partner and who are not also the children of the surviving spouse
16 or surviving domestic partner.

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

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

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

1 **SECTION 106.** 854.15 (title) of the statutes is amended to read:

2 **854.15** (title) **Revocation of provisions in favor of former spouse or**
3 **former domestic partner.**

4 **SECTION 107.** 854.15 (1) (b) of the statutes is renumbered 854.15 (1) (b) (intro.)
5 and amended to read:

6 854.15 **(1)** (b) (intro.) "Divorce, annulment or similar event" means any of the
7 following:

8 1. A divorce, ~~any~~ annulment, or ~~any~~ other event or proceeding that would
9 exclude a spouse as a surviving spouse under s. 851.30.

10 **SECTION 108.** 854.15 (1) (b) 2. of the statutes is created to read:

11 854.15 **(1)** (b) 2. A termination of a domestic partnership or other event or
12 proceeding that would exclude a person as a surviving domestic partner under s.
13 851.295.

14 **SECTION 109.** 854.15 (1) (c) of the statutes is amended to read:

15 854.15 **(1)** (c) "Former spouse" means a person whose marriage to the decedent
16 or domestic partnership with the decedent has been the subject of a divorce,
17 annulment or similar event.

18 **SECTION 110.** 854.15 (5) (am) 5. of the statutes is amended to read:

19 854.15 **(5)** (am) 5. The decedent and the former spouse have remarried or
20 entered into a new domestic partnership before the death of the decedent.

21 **SECTION 111.** 859.25 (1) (g) of the statutes is amended to read:

22 859.25 **(1)** (g) Property assigned to the surviving spouse or surviving domestic
23 partner under s. 861.41.

24 **SECTION 112.** 861.21 (title) of the statutes is amended to read:

1 **861.21** (title) **Assignment of home to surviving spouse or surviving**
2 **domestic partner.**

3 **SECTION 113.** 861.21 (1) (b) of the statutes is amended to read:

4 861.21 **(1)** (b) "Home" means any dwelling in which the decedent had an
5 interest and that at the time of the decedent's death the surviving spouse or surviving
6 domestic partner occupies or intends to occupy. If there are several such dwellings,
7 any one may be designated by the surviving spouse or surviving domestic partner.
8 "Home" includes a house, a mobile home, a manufactured home, a duplex or multiple
9 apartment building one unit of which is occupied by the surviving spouse or
10 surviving domestic partner and a building used in part for a dwelling and in part for
11 commercial or business purposes. "Home" includes all of the surrounding land,
12 unless the court sets off part of the land as severable from the remaining land under
13 sub. (5).

14 **SECTION 114.** 861.21 (2), (4) and (5) of the statutes are amended to read:

15 861.21 **(2)** DECEDENT'S PROPERTY INTEREST IN HOME. Subject to subs. (4) and (5),
16 if a married decedent or decedent in a domestic partnership has a property interest
17 in a home, the decedent's entire interest in the home shall be assigned to the
18 surviving spouse or surviving domestic partner if the surviving spouse or surviving
19 domestic partner petitions the court requesting such a distribution and if a
20 governing instrument does not provide a specific transfer of the decedent's interest
21 in the home to someone other than the surviving spouse or surviving domestic
22 partner. The surviving spouse or surviving domestic partner shall file the petition
23 within 6 months after the decedent's death, unless the court extends the time for
24 filing.

1 **(4)** PAYMENT BY SURVIVING SPOUSE OR SURVIVING DOMESTIC PARTNER. The court
2 shall assign the interest in the home under sub. (2) to the surviving spouse or
3 surviving domestic partner upon payment of the value of the decedent's interest in
4 the home that does not pass to the surviving spouse or surviving domestic partner
5 under intestacy or under a governing instrument. Payment shall be made to the
6 fiduciary holding title to the interest. The surviving spouse or surviving domestic
7 partner may use assets due him or her from the fiduciary to satisfy all or part of the
8 payment in kind. Unless the court extends the time, the surviving spouse or
9 surviving domestic partner shall have one year from the decedent's death to pay the
10 value of the assigned interest.

11 **(5)** SEVERANCE OF HOME FROM SURROUNDING LAND. On petition of the surviving
12 spouse or surviving domestic partner or of any interested person that part of the land
13 is not necessary for dwelling purposes and that it would be inappropriate to assign
14 all of the surrounding land as the home under sub. (2), the court may set off for the
15 home as much of the land as is necessary for a dwelling. In determining how much
16 land should be set off, the court shall take into account the use and marketability of
17 the parcels set off as the home and the remaining land.

18 **SECTION 115.** 861.31 (1m), (2) and (4) (intro.) and (b) of the statutes are
19 amended to read:

20 861.31 **(1m)** The court may, without notice or on such notice as the court
21 directs, order payment by the personal representative or special administrator of an
22 allowance as the court determines necessary or appropriate for the support of the
23 surviving spouse or surviving domestic partner and any minor children of the
24 decedent during the administration of the estate. The court shall consider the size

of the probate estate, other resources available for support, the existing standard of living, and any other factors it considers relevant.

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

(4) (intro.) The court may order that the allowance be charged against income or principal, either as an advance or otherwise, but the court may not order that an allowance for support of minor children of the decedent be charged against the income or principal interest of the surviving spouse or surviving domestic partner. The court may order that the allowance for support of the surviving spouse or surviving domestic partner, not including any allowance for support of minor children of the decedent, be applied in satisfaction of any of the following:

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

SECTION 116. 861.33 (title) of the statutes is amended to read:

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

SECTION 117. 861.33 (1) (a) (intro.) and 1. and (b) of the statutes are amended to read:

861.33 **(1)** (a) (intro.) Subject to this section, in addition to all allowances and distributions, the surviving spouse or surviving domestic partner may file with the

1 court a written selection of the following personal property, which shall then be
2 transferred to the spouse or domestic partner by the personal representative:
3 1. Wearing apparel and jewelry held for personal use by the decedent or the
4 surviving spouse or surviving domestic partner;
5 (b) The selection in par. (a) may not include items specifically bequeathed
6 except that the surviving spouse or surviving domestic partner may in every case
7 select the normal household furniture, furnishings, and appliances necessary to
8 maintain the home. For this purpose antiques, family heirlooms, and collections that
9 are specifically bequeathed are not classifiable as normal household furniture or
10 furnishings.
11 **SECTION 118.** 861.35 (title) of the statutes is amended to read:
12 **861.35** (title) **Special allowance for support of spouse or domestic**
13 **partner and support and education of minor children.**
14 **SECTION 119.** 861.35 (1m), (2), (3) (a) and (4) of the statutes are amended to
15 read:
16 861.35 **(1m)** If the decedent is survived by a spouse, domestic partner, or by
17 minor children, the court may order an allowance for the support and education of
18 each minor child until he or she reaches a specified age, not to exceed 18, and for the
19 support of the spouse or domestic partner. This allowance may be made whether the
20 estate is testate or intestate. If the decedent is not survived by a spouse or domestic
21 partner, the court also may allot directly to the minor children household furniture,
22 furnishings, and appliances. The court may not order an allowance under this
23 section if any of the following applies:

1 (a) The decedent has amply provided for each minor child and for the spouse
2 or domestic partner by the transfer of probate or nonprobate assets, or support and
3 education have been provided for by any other means.
4 (b) In the case of minor children, the surviving spouse or surviving domestic
5 partner is legally responsible for support and education and has ample means to
6 provide them in addition to his or her own support.
7 (c) In the case of the surviving spouse or surviving domestic partner, he or she
8 has ample means to provide for his or her support.
9 **(2)** The court may set aside property to provide an allowance and may appoint
10 a trustee to administer the property, subject to the continuing jurisdiction of the
11 court. If a child dies or reaches the age of 18, or if at any time the property held by
12 the trustee is no longer required for the support of the spouse or domestic partner or
13 the support and education of the minor child, any remaining property is to be
14 distributed by the trustee as the court orders in accordance with the terms of the
15 decedent's will or to the heirs of the decedent in intestacy or to satisfy unpaid claims
16 of the decedent's estate.
17 **(3)** (a) The effect on claims under s. 859.25. The court shall balance the needs
18 of the spouse, domestic partner, or minor children against the nature of the creditors'
19 claims in setting the amount allowed under this section.
20 **(4)** The court may order that the allowance to the surviving spouse or surviving
21 domestic partner, not including any allowance for the support and education of minor
22 children, be applied in satisfaction of any of the following:
23 (a) Any entitlement of the surviving spouse or surviving domestic partner
24 under s. 853.12.

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

SECTION 120. 861.41 of the statutes is amended to read:

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

(2) The court shall grant the petition if it determines that an assignment ahead of creditors is reasonably necessary for the support of the spouse or domestic partner. In determining the necessity and the amount of property to be assigned, the court must take into consideration the availability of a home to the surviving spouse or surviving domestic partner and all other assets and resources available for support.

SECTION 121. 867.01 (1) (b) and (3) (f) of the statutes are amended to read:

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

(3) (f) *Order.* If the court is satisfied that the estate may be settled under this section, after 30 days have elapsed since notice to the department of health services under par. (d), if that notice is required, the court shall assign the property to the persons entitled to it. If the estate may be settled under sub. (1) (b), any property not

otherwise assigned shall be assigned to the surviving spouse or surviving domestic partner, or minor children or both as an allowance under s. 861.31. The court shall order any person indebted to or holding money or other property of the decedent to pay the indebtedness or deliver the property to the persons found to be entitled to receive it. The court shall order the transfer of interests in real estate, stocks or bonds registered in the name of the decedent, the title of a licensed motor vehicle, or any other form of property. If the decedent immediately prior to death had an estate for life or an interest as a joint tenant in any property in regard to which a certificate of termination in accordance with s. 867.04 has not been issued, the order shall set forth the termination of that life estate or the right of survivorship of any joint tenant. Every tract of real property in which an interest is assigned or terminated or which is security for a debt in which an interest is assigned or terminated shall be specifically described.

SECTION 122. 895.04 (2) and (6) of the statutes are amended to read:

895.04 **(2)** If the deceased leaves surviving a spouse or domestic partner under ch. 770, and minor children under 18 years of age with whose support the deceased was legally charged, the court before whom the action is pending, or if no action is pending, any court of record, in recognition of the duty and responsibility of a parent to support minor children, shall determine the amount, if any, to be set aside for the protection of such children after considering the age of such children, the amount involved, the capacity and integrity of the surviving spouse or surviving domestic partner, and any other facts or information it may have or receive, and such amount may be impressed by creation of an appropriate lien in favor of such children or otherwise protected as circumstances may warrant, but such amount shall not be in excess of 50% of the net amount received after deduction of costs of collection. If there

1 are no such surviving minor children, the amount recovered shall belong and be paid
2 to the spouse or domestic partner of the deceased; if no spouse or domestic partner
3 survives, to the deceased's lineal heirs as determined by s. 852.01; if no lineal heirs
4 survive, to the deceased's brothers and sisters. If any such relative dies before
5 judgment in the action, the relative next in order shall be entitled to recover for the
6 wrongful death. A surviving nonresident alien spouse or a nonresident alien
7 domestic partner under ch. 770 and minor children shall be entitled to the benefits
8 of this section. In cases subject to s. 102.29 this subsection shall apply only to the
9 surviving spouse's or surviving domestic partner's interest in the amount recovered.
10 If the amount allocated to any child under this subsection is less than $10,000, s.
11 807.10 may be applied. Every settlement in wrongful death cases in which the
12 deceased leaves minor children under 18 years of age shall be void unless approved
13 by a court of record authorized to act hereunder.

14 **(6)** Where the wrongful death of a person creates a cause of action in favor of
15 the decedent's estate and also a cause of action in favor of a spouse, domestic partner
16 under ch. 770, or relatives as provided in this section, such spouse, domestic partner,
17 or relatives may waive and satisfy the estate's cause of action in connection with or
18 as part of a settlement and discharge of the cause of action of the spouse, domestic
19 partner, or relatives.

20 **SECTION 123.** 905.05 (title) of the statutes is amended to read:

21 **905.05** (title) **Husband-wife and domestic partner privilege.**

22 **SECTION 124.** 905.05 (1), (2) and (3) (a), (b), (c) and (d) of the statutes are
23 amended to read:

24 905.05 **(1)** GENERAL RULE OF PRIVILEGE. A person has a privilege to prevent the
25 person's spouse or former spouse or domestic partner or former domestic partner

from testifying against the person as to any private communication by one to the other made during their marriage or domestic partnership. As used in this section, "domestic partner" means a domestic partner under ch. 770.

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

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

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

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

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

SECTION 125. 949.01 (2) of the statutes is amended to read:

949.01 **(2)** "Dependent" means any spouse, domestic partner under ch. 770, parent, grandparent, stepparent, child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or parent of spouse or of domestic partner under ch. 770, of a deceased victim who was wholly or partially dependent upon the victim's income at the time of the victim's death and includes any child of the victim born after the victim's death.

1 **SECTION 126.** 949.06 (1m) (a) of the statutes is amended to read:

2 949.06 **(1m)** (a) In this subsection, "family member" means any spouse,
3 domestic partner under ch. 770, parent, grandparent, stepparent, child, stepchild,
4 adopted child, grandchild, foster child, treatment foster child, brother, sister, half
5 brother, half sister, aunt, uncle, nephew, niece, or parent or sibling of spouse or of
6 domestic partner under ch. 770.

7 **SECTION 127.** 971.17 (4m) (a) 2. of the statutes is amended to read:

8 971.17 **(4m)** (a) 2. "Member of the family" means spouse, domestic partner
9 under ch. 770, child, sibling, parent or legal guardian.

10 **SECTION 128.** 971.17 (6m) (a) 2. of the statutes is amended to read:

11 971.17 **(6m)** (a) 2. "Member of the family" means spouse, domestic partner
12 under ch. 770, child, sibling, parent or legal guardian.

13 **SECTION 129.** 980.11 (1) (b) of the statutes is amended to read:

14 980.11 **(1)** (b) "Member of the family" means spouse, domestic partner under
15 ch. 770, child, sibling, parent or legal guardian.

16 **SECTION 9315. Initial applicability; Employee Trust Funds.**

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

21 **SECTION 9343. Initial applicability; Revenue.**

22 (1) REAL ESTATE TRANSFER FEE. The treatment of sections 77.25 (8n) of the
23 statutes first applies to conveyances recorded on the effective date of this subsection.

24 **(END)**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

Date

LRB-1308/3dn
PJK:...
nwn

Caitlin:

This redraft makes a few nonsubstantive changes to clean up the language.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1308/3dn
PJK:nwn:ph

February 11, 2009

Caitlin:

This redraft makes a few nonsubstantive changes to clean up the language.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Barman, Mike

From: Barman, Mike
Sent: Wednesday, February 11, 2009 9:59 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-1308/3 (PJK's "All" Budget Draft) (BB0334)

Attachments: 09-1308/3; 09-1308/3dn

09-13083.pdf (219 KB) 09-13083dn.pdf (9 KB)

Paper Copies To PJK, RCT, JTK, MES & PG

Kahler, Pam

From: Frederick, Caitlin - DOA [caitlin.frederick@wisconsin.gov]
Sent: Friday, February 13, 2009 9:47 AM
To: Kahler, Pam
Subject: RE: Domestic partners

Let's move ahead and make the change.

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Friday, February 13, 2009 9:41 AM
To: Frederick, Caitlin - DOA
Subject: RE: Domestic partners

I don't think it would be too bad. I think we would just add a citation to the ch. 40 definition where the citation is currently only to the ch. 770 definition. But let me know for sure if you want us to do it. Thanks.

From: Frederick, Caitlin - DOA [mailto:caitlin.frederick@wisconsin.gov]
Sent: Friday, February 13, 2009 8:41 AM
To: Kahler, Pam
Subject: FW: Domestic partners

Pam,
How difficult of a change is it to include the family leave provision? I am reticent to make changes since there seems to be some very siloed direction from above as to the content of the bill.

From: Jablonsky, Sue - DOA
Sent: Friday, February 13, 2009 8:37 AM
To: Frederick, Caitlin - DOA
Subject: FW: Domestic partners

Question from the drafter

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Thursday, February 12, 2009 3:36 PM
To: Jablonsky, Sue - DOA
Subject: Domestic partners

Sue:

I talked to Gordon, and he was somewhat confused because he wasn't aware of the different defintion in ch. 40 of domestic partners for state benefits. So my question is whether the governor's office wants family leave benefits for the domestic partners under ch. 40. As the bill is drafted now, they would not have family leave benefits because only domestic partners as defined in ch. 770 do.

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682