State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1308/4
ALL:kjf&nwn:ph

DOA:.....Frederick, BB0334 - Domestic Partnership

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

Establishment of domestic partnership

This bill provides requirements for forming a legal relationship of domestic partnership. Under the bill, a domestic partnership may be formed by two individuals who are at least 18 years old and who are not married or in another domestic partnership. The individuals must share a common residence, they may not be nearer of kin than second cousins, and they must be members of the same sex.

To form a domestic partnership, the individuals apply for a declaration of domestic partnership to the county clerk of the county in which at least one of them has resided for at least 30 days. The application must be subscribed to by the parties, who must submit proof of identification to the county clerk. The application must contain the social security numbers of the parties, as well as any other information that the Department of Health Services (DHS) directs. Each applicant must exhibit to the clerk a certified copy of his or her birth certificate, as well as any other document affecting the domestic partnership status, such as a death certificate or a certificate of termination of domestic partnership. If the parties fulfill all of the requirements for forming a domestic partnership, the clerk issues to the parties a declaration of domestic partnership. The parties must complete the declaration, sign it in front of a notary, and submit it to the register of deeds of the county in which they reside. After recording the declaration, the register of deeds must send the original to the state registrar of vital statistics.

To terminate a domestic partnership, at least one of the domestic partners must file with the county clerk a notice of termination of domestic partnership, which must be signed by one or both of the domestic partners and notarized. If only one of the domestic partners signs the notice, he or she must also file an affidavit stating either of the following: 1) that he or she has served the other domestic partner with notice that he or she is going to file a notice of termination of domestic partnership; or 2) that he or she has been unable to locate the other domestic partner and has published a notice in a newspaper of general circulation in the county in which the latest common residence of the domestic partners is located. Upon receipt of a notice of termination, or a notice and an affidavit, the clerk issues a certificate of termination of domestic partnership to the domestic partner filing the notice of termination of domestic partnership. The certificate of termination of domestic partnership is recorded in the office of the register of deeds, and the register of deeds must send the original to the state registrar of vital statistics. The termination of the domestic partnership is effective 90 days after the certificate of termination of domestic partnership is recorded in the office of the register of deeds. However, if one or both domestic partners enters into a marriage that is valid in the state, the domestic partnership is automatically terminated on the date of the marriage.

Court and evidentiary matters

Under current law, a court reviewing a settlement or monetary judgment for the plaintiff in a wrongful death action may set aside an amount of up to 50 percent of the net settlement or judgment, after deducting collection costs, for the support of the decedent's surviving spouse or minor children. Current law permits a surviving spouse or other relatives allowed to bring a wrongful death action to satisfy and discharge the claims of the estate in settling the wrongful death claims of the surviving spouse or other relative. This bill allows the decedent's surviving domestic partner to file an action for wrongful death, to petition the court to set aside amounts of up to 50 percent of the net settlement or judgment of the wrongful death claims for the support of the domestic partner and allows the domestic partner to discharge the claims of the estate in settling the domestic partner's wrongful death claims.

Under current law, a person has the right to evoke the spousal privilege and prevent the person's current or former spouse from testifying about private communications between the spouses or former spouses, subject to certain exclusions. This bill allows a person to prevent the person's current or former domestic partners from testifying about private communications between the domestic partners or former domestic partners, subject to the same exclusions.

Current law requires that a victim of a crime or his or her family members be notified when a person who committed a crime against the victim is released from prison or a mental institution, applies or qualifies for release to probation or extended supervision from prison or a mental institution, applies for a pardon, or escapes from a prison. This bill includes a domestic partner as a member of a victim's family who is entitled to the same notice given to family members under current law.

Current law also allows the Department of Justice to grant compensation to the spouse of a person who is killed or injured while trying to prevent a crime, trying to detain a criminal, or trying to assist a crime victim or a law enforcement officer. This

bill allows a domestic partner to receive the same compensation that a spouse receives under current law.

Employee benefits

Under current worker's compensation law, when death results from an injury sustained by an employee while performing services growing out of and incidental to employment, the employee's dependents, including a spouse who is living with the employee at the time of death, are entitled to a death benefit. This bill extends death benefits under the worker's compensation law to a domestic partner of a deceased employee who is living with the deceased employee at the time of death.

Family leave. Under current law, an employee of an employer employing 50 or more individuals on a permanent basis may take up to six weeks of family leave in a 12-month period to care for a child, spouse, or parent of the employee, or the parent of the spouse of the employee, who has a serious health condition. This bill permits such an employee to take family leave to care for a domestic partner, or the parent of a domestic partner, who has a serious health condition.

Wage and cash bond payments. Under current law, if an employee to whom wages are due dies, the employer must, upon demand, pay the wages to the spouse, children, or other dependent living with the employee at the time of death. The employer may, before an application is filed for the administration of the deceased employee's estate, make that payment to the spouse, children, parents, or siblings of the deceased employee, giving preference in that order listed.

Similarly, if an employee who is required to furnish a cash bond dies, the employer may, before an application is filed for the administration of the deceased employee's estate, withdraw the cash bond and turn it over to the spouse, children, parents, or siblings of the deceased employee, giving preference in that order listed.

This bill requires an employer of a deceased employee who was required to furnish a cash bond or to whom wages are due to turn over the cash bond or pay the wages to the domestic partner of the deceased employee.

Public employee benefits. The bill provides that domestic partners must be treated in the same manner as spouses with respect to all pension benefits provided to public employees who are covered under the Wisconsin Retirement System and all other benefits provided to state employees.

Insurance matters

Under a program in current law, DHS provides subsidies to eligible persons to pay premiums for health insurance provided through the person's employer if the person's employment has been terminated or his or her hours have been reduced or he or she is on medical leave because of an illness or condition related to a human immunodeficiency virus (HIV) infection. DHS may provide the subsidies even if the insurance covers the person's spouse and dependants. The bill provides that DHS may also provide the subsidies if the insurance covers the person's domestic partner.

Under current law, a local governmental unit (which includes a city, village, town, county, school district, sewerage district, and drainage district) may provide health and life insurance for employees, officers, and their spouses and dependent children. Under this bill, such coverage may also be provided for an employee's and officer's domestic partner and dependent children.

Health and mental health care and after-death decision making

Currently, all patient health care records are confidential and, with numerous exceptions, may be released only to persons with the written, informed consent of the patient or of a person authorized by the patient. A "person authorized by the patient" is, for an adult, the patient's guardian, a person authorized in writing by the patient, or the agent under the patient's power of attorney for health care. For a deceased patient, the patient's personal representative or spouse is the person authorized by the patient. If no spouse survives a decedent, an adult member of the deceased patient's immediate family is the person authorized by the patient. The authorization permits inspection and receipt of copies of the patient's health care records. The bill authorizes a domestic partner of a deceased patient to be the person authorized by the patient for purposes of release of the patient's health care records.

Under current law, an individual's treatment records (records of services for mental illness, developmental disability, alcoholism, or drug dependence) generally are confidential and privileged to the individual, but may be released without informed written consent under numerous circumstances. Under one of the circumstances, a spouse, parent, adult child, or sibling who is directly involved in providing care to or monitoring the treatment of an individual may, upon request, receive certain limited information from the individual's mental illness or developmental disability treatment records. Under another circumstance, the parent, child, sibling, or spouse of an individual who is a patient at a public or private treatment hospital, a law enforcement officer, or a mental health professional may receive certain information about the location of the individual, unless the individual has requested that the information be withheld or there is reasonable cause to believe that the information would result in danger to the individual. The bill authorizes the domestic partner of an individual who is receiving treatment for mental illness or developmental disability to receive information from the treated individual's treatment records and about the individual's location.

Currently, certain persons, in a specified order of priority, may consent to admission directly to a hospice or directly from a hospital to a nursing home or community-based residential facility (C-BRF) of an incapacitated individual who does not have a valid power of attorney for health care and has not been adjudicated incompetent. The priority for these persons in relationship to the incapacitated individual is spouse; adult child; parent; adult sibling; grandparent or adult grandchild (for admission to a nursing home or C-BRF); and adult close friend. Consent for admission may not be made if the individual, or certain persons within the order of priority, objects. The bill classifies an incapacitated individual's domestic partner in the same priority as a spouse for the purpose of admitting the individual to a nursing home, C-BRF, or hospice.

Under current law, if both spouses are residents of the same nursing home or C-BRF, they may be permitted to share a room, unless medically contraindicated. The bill permits the sharing of a room by both domestic partners if both are residents of the same nursing home or C-BRF.

The bill requires a hospital, nursing home, C-BRF, certified or licensed adult family home, residential care apartment complex, or hospice that has a policy on

visiting patients to extend the same right of visitation to a patient's domestic partner as is accorded the spouse of a patient under the policy.

Currently, a health care power of attorney and a durable power of attorney for finances under which the principal's agent is his or her spouse is terminated if the marriage is annulled or ends in divorce. This bill terminates a health care power of attorney and a durable power of attorney for finances under which the principal's agent is his or her domestic partner if the domestic partnership is terminated.

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.

Currently, certain reasonably available persons may, under a specified order of priority, make a donation of all or part of another's body near or upon the donor's death (anatomical gift) for use in transplantation or other purposes. The priority in authority for these persons in relationship to the donor is agent under a health care power of attorney, spouse, adult child, parent, adult sibling, adult grandchild, grandparent, adult who has exhibited special care and concern for the donor, guardian, and any other person who has authority to dispose of the individual's body. An anatomical gift may not be made by any of these persons if the decedent has made an unrevoked refusal to donate or if a majority of members in the same class in priority objects. The bill classifies the decedent's domestic partner in the same priority as a spouse for the purpose of making an anatomical gift of the decedent's body or part of the decedent's body.

Probate matters

This bill defines a "surviving domestic partner" as a person who was the domestic partner of the decedent at the time of the decedent's death.

This bill establishes that in probate cases, the following rights for the surviving domestic partner of a decedent are equivalent to the rights of a surviving spouse:

1. The surviving domestic partner of a decedent who dies intestate is entitled to inherit all of the decedent's estate unless the decedent had children that were not also the children of the surviving domestic partner, in which case the surviving domestic partner receives half of the intestate estate.

2. A surviving domestic partner may petition the court for the full property interest the decedent had in a home, subject to payment to the estate of the value of that interest the surviving domestic partner is not entitled to under a governing instrument or under intestacy, within one year from the decedent's death.

3. If a decedent executed his or her will before the registration of the domestic partnership, the surviving domestic partner is entitled to a share of the decedent's estate equivalent to what the share would be if the decedent died intestate, subject to certain reductions, unless the will was executed in contemplation of the domestic

partnership or was intended to apply notwithstanding the decedent subsequently entering into a domestic partnership.

4. A surviving domestic partner may petition the probate court for an allowance for support, but the court may order that sum be charged against interest or principal from the estate to which the surviving domestic partner is entitled and the court may apply that allowance against amounts owed for assuming the decedent's full interest in a home. The court may distribute a special allowance for support of the surviving domestic partner even if the distribution of such an allowance would harm the interests of a creditor, after performing a balancing test of the needs of the surviving domestic partner versus the needs of the creditor.

5. A surviving domestic partner may select from the estate certain personal and household items and may be entitled to household items necessary for the maintenance of the home, notwithstanding that those items were bequeathed to another heir.

6. A surviving domestic partner may petition the court to set aside an amount for his or her support of up to $10,000 in value that will be exempt from the claims of the estate's creditors.

7. If the value of the decedent's estate, less the amounts of debt secured by property of the estate, does not exceed $50,000, a surviving domestic partner may settle the estate under summary procedures without the need to appoint a personal representative of the estate.

8. Provides that a termination of a domestic partnership revokes any right to disposition of property related to a decedent who was a domestic partner in the same manner as a divorce revokes any right to disposition of property related to a decedent who was married.

Property matters

Under current law, if persons named as owners in a document of title or as transferees or buyers in an instrument of transfer are described as husband and wife or are in fact husband and wife, the owners, transferees, or buyers are joint tenants. The bill provides that domestic partners are also joint tenants if they are named as owners in a document of title or as transferees or buyers in an instrument of transfer.

Under current law, the transfer of real property between spouses is exempt from the real estate transfer fee. Under the bill, the transfer of real property between an individual and his or her domestic partner is exempt from the real estate transfer fee.

Motor vehicle titles

Under current law, the Department of Transportation (DOT) collects a supplemental vehicle title fee in connection with applications for certificates of title for new vehicles and for vehicles the ownership of which has been transferred. However, this fee is waived for transfer of a decedent's interest in a vehicle to his or her surviving spouse. Also under current law, with an exception, DOT must transfer a decedent's interest in a vehicle 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 motor vehicle transfer provisions.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

For further information see the ***state*** 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:

SECTION 1. 40.02 (2m) of the statutes is amended to read:

40.02 **(2m)** "Alternate payee" means a former spouse or domestic partner of a participant who is named in a qualified domestic relations order as having a right to receive a portion of the benefits of the participant.

SECTION 2. 40.02 (8) (a) 2. of the statutes is amended to read:

40.02 **(8)** (a) 2. In the absence of a written designation of beneficiary, or if all designated beneficiaries who survive the decedent die before filing with the department a beneficiary designation applicable to that death benefit or an application for any death benefit payable, the person determined in the following sequence: group 1, surviving spouse or surviving domestic partner; group 2, children of the deceased participant, employee or annuitant, in equal shares, with the share of any deceased child payable to the issue of the child or, if there is no surviving issue of a deceased child, to the other eligible children in this group or, if deceased, their issue; group 3, parent, in equal shares if both survive; group 4, brother and sister in equal shares and the issue of any deceased brother or sister. The shares payable to the issue of a person shall be determined per stirpes. No payment may be made to

a person included in any group if there is a living person in any preceding group, and s. 854.04 (6) shall not apply to a determination under this subsection.

SECTION 3. 40.02 (20) of the statutes is amended to read:

40.02 **(20)** "Dependent" means the spouse, domestic partner, minor child, including stepchildren of the current marriage or domestic partnership dependent on the employee for support and maintenance, or child of any age, including stepchildren of the current marriage or domestic partnership, if handicapped to an extent requiring continued dependence. For group insurance purposes only, the department may promulgate rules with a different definition of "dependent" than the one otherwise provided in this subsection for each group insurance plan.

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

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

SECTION 5. 40.02 (21d) of the statutes is created to read:

40.02 **(21d)** "Domestic partnership" means a relationship between 2 individuals that satisfies all of the following:

(a) Each individual is at least 18 years old and otherwise competent to enter into a contract.

(b) Neither individual is married to, or in a domestic partnership with, another individual.

(c) The 2 individuals are not related by blood in any way that would prohibit marriage under s. 765.03.

(d) The 2 individuals consider themselves to be members of each other's immediate family.

(e) The 2 individuals agree to be responsible for each other's basic living expenses.

SECTION 6. 40.02 (25) (b) 3. of the statutes is amended to read:

40.02 **(25)** (b) 3. The surviving spouse or domestic partner of an employee, or of a retired employee, who is currently covered by health insurance at the time of death of the employee or retired employee. The spouse or domestic partner shall have the same right to health insurance coverage as the deceased employee or retired employee, but without state contribution, under rules promulgated by the secretary.

SECTION 7. 40.08 (8) (a) 4. of the statutes is amended to read:

40.08 **(8)** (a) 4. The former spouse or domestic partner of a participant who is an alternate payee and whom the department cannot locate by reasonable efforts, with such efforts beginning by the end of the month in which the participant attains, or would have attained, the age of 65, shall be considered to have abandoned all benefits under the Wisconsin retirement system on the date on which the participant attains, or would have attained, the age of 70. The department shall close the alternate payee's account and shall transfer the moneys in the account to the employer accumulation reserve. The department shall restore the alternate payee's account and shall debit the employer accumulation reserve accordingly if the alternate payee subsequently applies for retirement benefits under this chapter before the participant attains or would have attained the age of 80.

SECTION 8. 40.08 (9) of the statutes is amended to read:

40.08 **(9)** PAYMENTS OF BENEFITS TO MINORS AND INDIVIDUALS FOUND INCOMPETENT. In any case in which a benefit amount becomes payable to a minor or to an individual adjudicated incompetent, the department may waive guardianship proceedings, and pay the benefit to the person providing for or caring for the minor, or to the spouse or domestic partner, parent, or other relative by blood or adoption providing for or caring for the individual adjudicated incompetent.

SECTION 9. 40.23 (4) (e) of the statutes is amended to read:

40.23 **(4)** (e) 1. Subject to subds. 2. to 4., if a participant dies before the distribution of benefits has commenced and the participant's beneficiary is the spouse or domestic partner, the department shall begin the distribution within 5 years after the date of the participant's death.

2. If the spouse or domestic partner files a subsequent beneficiary designation with the department, the payment of the distribution may be deferred until the January 1 of the year in which the participant would have attained the age of 70.5 years.

3. If the spouse or domestic partner does not apply for a distribution, the distribution shall begin as an automatic distribution as provided under subd. 1. or under par. (c), whichever distribution date is earlier.

4. If the spouse or domestic partner dies, but has designated a new beneficiary, the birth date of the spouse or domestic partner shall be used for the purposes of determining the required beginning date.

5. The department shall specify by rule all procedures relating to an automatic distribution to the spouse or domestic partner. These rules shall comply with the internal revenue code.

SECTION 10. 40.23 (4) (f) (intro.) of the statutes is amended to read:

40.23 **(4)** (f) (intro.) If a participant dies before the distribution of benefits has commenced and the participant's beneficiary is not the spouse or domestic partner, the beneficiary shall do one of the following:

SECTION 11. 40.24 (7) (a) (intro.) of the statutes is amended to read:

40.24 **(7)** (a) (intro.) Any participant who has been married to the same spouse, or in a domestic partnership with the same domestic partner, for at least one year

immediately preceding the participant's annuity effective date shall elect the annuity option under sub. (1) (d), the annuity option under sub. (1) (e), if the reduced annuity under sub. (1) (e) is payable in an optional life form provided under sub. (1) (d), or an annuity option in a form provided by rule, if the annuity is payable for life with monthly payments of at least 75% of the amount of the annuity to be continued to the beneficiary, for life, upon the death of the participant, and the participant shall designate the spouse or domestic partner as the beneficiary, unless the participant's application for a retirement annuity in a different optional annuity form is signed by both the participant and the participant's spouse or domestic partner or unless the participant establishes to the satisfaction of the department that, by reason of absence or other inability, the spouse's or domestic partner's signature may not be obtained. This subsection does not apply to any of the following:

SECTION 12. 40.24 (7) (b) of the statutes is amended to read:

40.24 **(7)** (b) In administering this subsection, the secretary may require the participant to provide the department with a certification of the participant's marital or domestic partnership status and of the validity of the spouse's or domestic partner's signature. If a participant is exempted from the requirements under par. (a) on the basis of a certification which the department or a court subsequently determines to be invalid, the liability of the fund and the department shall be limited to a conversion of annuity options at the time the certification is determined to be invalid. The conversion shall be from the present value of the annuity in the optional form originally elected by the participant to an annuity with the same present value but in the optional form under sub. (1) (d) and with monthly payments of 100% of the amount of the annuity paid to the annuitant to be continued to the spouse or domestic partner beneficiary.

SECTION 13. 40.25 (3m) of the statutes is amended to read:

40.25 **(3m)** A participant's application for a lump sum payment under sub. (1) (b) or (2), filed after May 7, 1994, shall be signed by both the participant and the participant's spouse or domestic partner, if the participant has been married to that spouse, or in a domestic partnership with that domestic partner, for at least one year immediately preceding the date the application is filed. The department may promulgate rules that allow for the waiver of the requirements of this subsection for a situation in which, by reason of absence or incompetency, the spouse's or domestic partner's signature may not be obtained. This subsection does not apply to any benefits paid from accumulated additional contributions.

SECTION 14. 40.52 (2) of the statutes is amended to read:

40.52 **(2)** Health insurance benefits under this subchapter shall be integrated, with exceptions determined appropriate by the group insurance board, with benefits under federal plans for hospital and health care for the aged and disabled. Exclusions and limitations with respect to benefits and different rates may be established for persons eligible under federal plans for hospital and health care for the aged and disabled in recognition of the utilization by persons within the age limits eligible under the federal program. The plan may include special provisions for spouses, domestic partners, and other dependents covered under a plan established under this subchapter where one spouse or domestic partner is eligible under federal plans for hospital and health care for the aged but the others are not eligible because of age or other reasons. As part of the integration, the department may, out of premiums collected under s. 40.05 (4), pay premiums for the federal health insurance.

SECTION 15. 40.55 (1) of the statutes is amended to read:

40.55 **(1)** Except as provided in sub. (5), the state shall offer, through the group insurance board, to eligible employees under s. 40.02 (25) (bm) and to state annuitants long-term care insurance policies which have been filed with the office of the commissioner of insurance and which have been approved for offering under contracts established by the group insurance board if the insurer requests that the policy be offered and the state shall also allow an eligible employee or a state annuitant to purchase those policies for his or her spouse, domestic partner, or parent.

SECTION 16. 40.65 (5) (b) 1. of the statutes is amended to read:

40.65 **(5)** (b) 1. Any OASDHI benefit payable to the participant or the participant's spouse, domestic partner, or a dependent because of the participant's work record.

SECTION 17. 40.65 (5) (c) of the statutes is amended to read:

40.65 **(5)** (c) The Wisconsin retirement board may not reduce a participant's benefit because of income or benefits that are attributable to the earnings or work record of the participant's spouse, domestic partner, or other member of the participant's family, or because of income or benefits attributable to an insurance contract, including income continuation programs.

SECTION 18. 40.65 (7) (am) (intro.) of the statutes is amended to read:

40.65 **(7)** (am) (intro.) This paragraph applies to benefits based on applications filed on or after May 3, 1988. If a protective occupation participant dies as a result of an injury or a disease for which a benefit is paid or would be payable under sub. (4), and the participant is survived by a spouse, domestic partner, or an unmarried child under the age of 18, a monthly benefit shall be paid as follows:

SECTION 19. 40.65 (7) (am) 1. of the statutes is amended to read:

40.65 **(7)** (am) 1. To the surviving spouse or domestic partner until the surviving spouse remarries or the surviving domestic partner enters into a new domestic partnership or marries, if the spouse was married to the participant on the date that the participant was disabled under sub. (4) or the domestic partner was in a domestic partnership with the participant on the date that the participant was disabled under sub. (4), 50% of the participant's monthly salary at the time of death, but reduced by any amount payable under sub. (5) (b) 1. to 6.

SECTION 20. 40.65 (7) (am) 2. of the statutes is amended to read:

40.65 **(7)** (am) 2. To a guardian for each of that guardian's wards who is an unmarried surviving child under the age of 18, 10% of the participant's monthly salary at the time of death, payable until the child marries, dies or reaches the age of 18, whichever occurs first. The marital or domestic partnership status of the surviving spouse or domestic partner shall have no effect on the payments under this subdivision.

SECTION 21. 40.65 (7) (ar) 1. of the statutes is amended to read:

40.65 **(7)** (ar) 1. This paragraph applies to benefits based on applications filed on or after May 12, 1998. If a protective occupation participant, who is covered by the presumption under s. 891.455, dies as a result of an injury or a disease for which a benefit is paid or would be payable under sub. (4), and the participant is survived by a spouse, domestic partner, or an unmarried child under the age of 18, a monthly benefit shall be paid as follows:

a. To the surviving spouse or domestic partner until the surviving spouse or domestic partner remarries or enters into a new domestic partnership, if the surviving spouse was married to the participant on the date that the participant was disabled under sub. (4) or the domestic partner was in a domestic partnership with

the participant on the date that the participant was disabled under sub. (4), 70% of the participant's monthly salary at the time of death, but reduced by any amount payable under sub. (5) (b) 1. to 6.

b. If there is no surviving spouse or domestic partner or the surviving spouse or domestic partner subsequently dies, to a guardian for each of that guardian's wards who is an unmarried surviving child under the age of 18, 10% of the participant's monthly salary at the time of death, payable until the child marries, dies or reaches the age of 18, whichever occurs first.

SECTION 22. 40.80 (2r) (a) 2. of the statutes is amended to read:

40.80 **(2r)** (a) 2. Assigns all or part of a participant's accumulated assets held in a deferred compensation plan under this subchapter to a spouse, former spouse, domestic partner, former domestic partner, child, or other dependent to satisfy a family support or marital property obligation.

SECTION 23. 40.98 (1) (b) of the statutes is amended to read:

40.98 **(1)** (b) "Dependent" means a spouse or domestic partner, an unmarried child under the age of 19 years, an unmarried child who is a full-time student under the age of 21 years and who is financially dependent upon the parent, or an unmarried child of any age who is medically certified as disabled and who is dependent upon the parent.

SECTION 24. 50.032 (2) of the statutes is amended to read:

50.032 **(2)** REGULATION. ~~Standards~~ Except as provided in sub. (2d), standards for operation of certified adult family homes and procedures for application for certification, monitoring, inspection, decertification and appeal of decertification under this section shall be under rules promulgated by the department under s.

50.02 (2) (am) 1. An adult family home certification is valid until decertified under this section. Certification is not transferable.

SECTION 25. 50.032 (2d) of the statutes is created to read:

50.032 **(2d)** ACCOMPANIMENT OR VISITATION. If an adult family home has a policy on who may accompany or visit a patient, the adult family home shall extend the same right of accompaniment or visitation to a patient's domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

SECTION 26. 50.033 (2) of the statutes is amended to read:

50.033 **(2)** REGULATION. ~~Standards~~ Except as provided in sub. (2d), standards for operation of licensed adult family homes and procedures for application for licensure, monitoring, inspection, revocation and appeal of revocation under this section shall be under rules promulgated by the department under s. 50.02 (2) (am) 2. An adult family home licensure is valid until revoked under this section. Licensure is not transferable. The biennial licensure fee for a licensed adult family home is $135. The fee is payable to the county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437, if the county department licenses the adult family home under sub. (1m) (b), and is payable to the department, on a schedule determined by the department if the department licenses the adult family home under sub. (1m) (b).

SECTION 27. 50.033 (2d) of the statutes is created to read:

50.033 **(2d)** ACCOMPANIMENT OR VISITATION. If an adult family home has a policy on who may accompany or visit a patient, the adult family home shall extend the same right of accompaniment or visitation to a patient's domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

SECTION 28. 50.034 (3) (e) of the statutes is created to read:

50.034 **(3)** (e) If a residential care apartment complex has a policy on who may accompany or visit a patient, the residential care apartment complex shall extend the same right of accompaniment or visitation to a patient's domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

SECTION 29. 50.035 (2d) of the statutes is created to read:

50.035 **(2d)** ACCOMPANIMENT OR VISITATION. If a community-based residential facility has a policy on who may accompany or visit a patient, the community-based residential facility shall extend the same right of accompaniment or visitation to a patient's domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

SECTION 30. 50.04 (2d) of the statutes is created to read:

50.04 **(2d)** ACCOMPANIMENT OR VISITATION. If a nursing home has a policy on who may accompany or visit a patient, the nursing home shall extend the same right of accompaniment or visitation to a patient's domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

SECTION 31. 50.06 (2) (am) 2. b. of the statutes is amended to read:

50.06 **(2)** (am) 2. b. The individual who is consenting to the proposed admission is the spouse or domestic partner under ch. 770 of the incapacitated person.

SECTION 32. 50.06 (3) (a) of the statutes is amended to read:

50.06 **(3)** (a) The spouse or domestic partner under ch. 770 of the incapacitated individual.

SECTION 33. 50.09 (1) (f) 1. of the statutes is amended to read:

50.09 **(1)** (f) 1. Privacy for visits by spouse or domestic partner. If both spouses or both domestic partners under ch. 770 are residents of the same facility, ~~they~~ the spouses or domestic partners shall be permitted to share a room unless medically

contraindicated as documented by the resident's physician or advanced practice nurse prescriber in the resident's medical record.

SECTION 34. 50.36 (3j) of the statutes is created to read:

50.36 **(3j)** If a hospital has a policy on who may accompany or visit a patient, the hospital shall extend the same right of accompaniment or visitation to a patient's domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

SECTION 35. 50.94 (3) (a) of the statutes is amended to read:

50.94 **(3)** (a) The spouse or domestic partner under ch. 770 of the person who is incapacitated.

SECTION 36. 50.942 of the statutes is created to read:

50.942 Accompaniment or visitation. If a hospice has a policy on who may accompany or visit a patient, the hospice shall extend the same right of accompaniment or visitation to a patient's domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

SECTION 37. 50.95 (1) of the statutes is amended to read:

50.95 **(1)** ~~Standards~~ Except as provided in s. 50.942, standards for the care, treatment, health, safety, rights, welfare and comfort of individuals with terminal illness, their families and other individuals who receive palliative care or supportive care from a hospice and the maintenance, general hygiene and operation of a hospice, which will permit the use of advancing knowledge to promote safe and adequate care and treatment for these individuals. These standards shall permit provision of services directly, as required under 42 CFR 418.56, or by contract under which overall coordination of hospice services is maintained by hospice staff members and the hospice retains the responsibility for planning and coordination of hospice services and care on behalf of a hospice client and his or her family, if any.

SECTION 38. 51.30 (4) (b) 20. (intro.) of the statutes is amended to read:

51.30 **(4)** (b) 20. (intro.) Except with respect to the treatment records of a subject individual who is receiving or has received services for alcoholism or drug dependence, to the spouse, domestic partner under ch. 770, parent, adult child or sibling of a subject individual, if the spouse, domestic partner, parent, adult child or sibling is directly involved in providing care to or monitoring the treatment of the subject individual and if the involvement is verified by the subject individual's physician, psychologist or by a person other than the spouse, domestic partner, parent, adult child or sibling who is responsible for providing treatment to the subject individual, in order to assist in the provision of care or monitoring of treatment. Except in an emergency as determined by the person verifying the involvement of the spouse, domestic partner, parent, adult child or sibling, the request for treatment records under this subdivision shall be in writing, by the requester. Unless the subject individual has been adjudicated incompetent in this state, the person verifying the involvement of the spouse, domestic partner, parent, adult child or sibling shall notify the subject individual about the release of his or her treatment records under this subdivision. Treatment records released under this subdivision are limited to the following:

SECTION 39. 51.30 (4) (cm) (intro.) of the statutes is amended to read:

51.30 **(4)** (cm) *Required access to certain information.* (intro.) Notwithstanding par. (a), treatment records of an individual shall, upon request, be released without informed written consent, except as restricted under par. (c), to the parent, child, sibling, ~~or~~ spouse, or domestic partner under ch. 770 of an individual who is or was a patient at an inpatient facility; to a law enforcement officer who is seeking to determine whether an individual is on unauthorized absence from the facility; and

to mental health professionals who are providing treatment to the individual at the time that the information is released to others. Information released under this paragraph is limited to notice as to whether or not an individual is a patient at the inpatient facility and, if the individual is no longer a patient at the inpatient facility, the facility or other place, if known, at which the individual is located. This paragraph does not apply under any of the following circumstances:

SECTION 40. 51.30 (4) (cm) 1. of the statutes is amended to read:

51.30 **(4)** (cm) 1. To the individual's parent, child, sibling, ~~or~~ spouse, or domestic partner under ch. 770 who is requesting information, if the individual has specifically requested that the information be withheld from the parent, child, sibling, ~~or~~ spouse, or domestic partner.

SECTION 41. 66.0137 (5) of the statutes is renumbered 66.0137 (5) (b) and amended to read:

66.0137 **(5)** (b) The state or a local governmental unit may provide for the payment of premiums for hospital, surgical and other health and accident insurance and life insurance for employees and officers ~~and~~, their spouses and dependent children, and their domestic partner under ch. 770 and dependent children. A local governmental unit may also provide for the payment of premiums for hospital and surgical care for its retired employees. In addition, a local governmental unit may, by ordinance or resolution, elect to offer to all of its employees a health care coverage plan through a program offered by the group insurance board under ch. 40. A local governmental unit that elects to participate under s. 40.51 (7) is subject to the applicable sections of ch. 40 instead of this subsection.

SECTION 42. 66.0137 (5) (a) of the statutes is created to read:

66.0137 **(5)** (a) In this subsection, "local governmental unit" includes the school district operating under ch. 119.

SECTION 43. 77.25 (8n) of the statutes is created to read:

77.25 **(8n)** Between an individual and his or her domestic partner under ch. 770.

SECTION 44. 101.9208 (4m) of the statutes is amended to read:

101.9208 **(4m)** Upon filing an application under sub. (1) or (4), a supplemental title fee to be paid by the owner of the manufactured home, except that this fee shall be waived with respect to an application under sub. (4) for transfer of a decedent's interest in a manufactured home to his or her surviving spouse or domestic partner under ch. 770. The fee required under this subsection shall be paid in addition to any other fee specified in this section.

SECTION 45. 102.475 (6) of the statutes is amended to read:

102.475 **(6)** PROOF. In administering this section the department may require reasonable proof of birth, marriage, domestic partnership under ch. 770, relationship, or dependency.

SECTION 46. 102.49 (1) of the statutes is amended to read:

102.49 **(1)** ~~Where~~ When the beneficiary under s. 102.46 or 102.47 (1) is the ~~wife or husband~~ spouse or domestic partner under ch. 770 of the deceased employee and is wholly dependent for support, an additional death benefit shall be paid from the funds provided by sub. (5) for each child by their marriage or domestic partnership under ch. 770 who is living at the time of the death of the employee, and who is likewise wholly dependent upon the employee for support. ~~Such~~ That payment shall commence at the time that primary death benefit payments are completed~~,~~ or, if advancement of compensation has been paid, at the time when payments would

normally have been completed. Payments shall continue at the rate of 10% of the surviving parent's weekly indemnity until the child's 18th birthday. If the child is physically or mentally incapacitated, ~~such~~ payments may be continued beyond the child's 18th birthday but the payments may not continue for more than a total of 15 years.

SECTION 47. 102.49 (2) of the statutes is amended to read:

102.49 **(2)** A child lawfully adopted by the deceased employee and the surviving spouse or domestic partner under ch. 770, prior to the time of the injury, and a child not the deceased employee's own by birth or adoption but living with the deceased employee as a member of the deceased employee's family at the time of the injury shall for the purpose of this section be taken as a child by their marriage or domestic partnership under ch. 770.

SECTION 48. 102.49 (3) of the statutes is amended to read:

102.49 **(3)** If the employee leaves a spouse or domestic partner under ch. 770 wholly dependent and also a child by a former marriage, domestic partnership under ch. 770, or adoption, likewise wholly dependent, aggregate benefits shall be the same in amount as if the child were the child of the surviving spouse or partner, and the entire benefit shall be apportioned to the dependents in the amounts that the department ~~shall determine~~ determines to be just, considering the ages of the dependents and other factors bearing on dependency. The benefit awarded to the surviving spouse or partner shall not exceed 4 times the average annual earnings of the deceased employee.

SECTION 49. 102.51 (1) (a) 2m. of the statutes is created to read:

102.51 **(1)** (a) 2m. A domestic partner under ch. 770 upon his or her partner with whom he or she is living at the time of the partner's death.

SECTION 50. 102.51 (2) (a) of the statutes is amended to read:

102.51 **(2)** (a) No person shall be considered a dependent unless that person is a spouse, a domestic partner under ch. 770, a divorced spouse who has not remarried, or a lineal descendant, lineal ancestor, brother, sister, or other member of the family, whether by blood or by adoption, of the deceased employee.

SECTION 51. 102.51 (6) of the statutes is amended to read:

102.51 **(6)** DIVISION AMONG DEPENDENTS. Benefits accruing to a minor dependent child may be awarded to either parent in the discretion of the department. Notwithstanding sub. (1), the department may reassign the death benefit, in accordance with their respective needs ~~therefor~~ for the death benefit as between a surviving spouse or a domestic partner under ch. 770 and children designated in sub. (1) and s. 102.49.

SECTION 52. 102.64 (1) of the statutes is amended to read:

102.64 **(1)** Upon request of the department of administration, a representative of the department of justice shall represent the state in cases involving payment into or out of the state treasury under s. 20.865 (1) (fm), (kr), or (ur) or 102.29. The department of justice, after giving notice to the department of administration, may compromise the amount of ~~such~~ those payments but such compromises shall be subject to review by the department of workforce development. If the spouse or domestic partner under ch. 770 of the deceased employee compromises his or her claim for a primary death benefit, the claim of the children of ~~such~~ the employee under s. 102.49 shall be compromised on the same proportional basis, subject to approval by the department. If the persons entitled to compensation on the basis of total dependency under s. 102.51 (1) compromise their claim, payments under s. 102.49 (5) (a) shall be compromised on the same proportional basis.

SECTION 53. 103.10 (1) (ar) of the statutes is created to read:

103.10 **(1)** (ar) "Domestic partner" has the meaning given in s. 40.02 (21c) or 770.01 (1).

SECTION 54. 103.10 (1) (b) of the statutes is amended to read:

103.10 **(1)** (b) "Employee" means an individual employed in this state by an employer, except the employer's parent, spouse, domestic partner, or child.

SECTION 55. 103.10 (1) (f) of the statutes is amended to read:

103.10 **(1)** (f) "Parent" means a natural parent, foster parent, treatment foster parent, adoptive parent, stepparent, or legal guardian of an employee or of an employee's spouse or domestic partner.

SECTION 56. 103.10 (3) (b) 3. of the statutes is amended to read:

103.10 **(3)** (b) 3. To care for the employee's child, spouse, domestic partner, or parent, if the child, spouse, domestic partner, or parent has a serious health condition.

SECTION 57. 103.10 (6) (b) (intro.) of the statutes is amended to read:

103.10 **(6)** (b) (intro.) If an employee intends to take family leave because of the planned medical treatment or supervision of a child, spouse, domestic partner, or parent or intends to take medical leave because of the planned medical treatment or supervision of the employee, the employee shall do all of the following:

SECTION 58. 103.10 (6) (b) 1. of the statutes is amended to read:

103.10 **(6)** (b) 1. Make a reasonable effort to schedule the medical treatment or supervision so that it does not unduly disrupt the employer's operations, subject to the approval of the health care provider of the child, spouse, domestic partner, parent, or employee.

SECTION 59. 103.10 (7) (a) of the statutes is amended to read:

103.10 **(7)** (a) If an employee requests family leave for a reason described in sub. (3) (b) 3. or requests medical leave, the employer may require the employee to provide certification, as described in par. (b), issued by the health care provider or Christian Science practitioner of the child, spouse, domestic partner, parent, or employee, whichever is appropriate.

SECTION 60. 103.10 (7) (b) 1. of the statutes is amended to read:

103.10 **(7)** (b) 1. That the child, spouse, domestic partner, parent, or employee has a serious health condition.

SECTION 61. 103.10 (12) (c) of the statutes is amended to read:

103.10 **(12)** (c) If 2 or more health care providers disagree about any of the information required to be certified under sub. (7) (b), the department may appoint another health care provider to examine the child, spouse, domestic partner, parent, or employee and render an opinion as soon as possible. The department shall promptly notify the employee and the employer of the appointment. The employer and the employee shall each pay 50% of the cost of the examination and opinion.

SECTION 62. 103.165 (3) (a) 1. of the statutes is amended to read:

103.165 **(3)** (a) 1. The decedent's surviving spouse or domestic partner under ch. 770.

SECTION 63. 103.165 (3) (a) 2. of the statutes is amended to read:

103.165 **(3)** (a) 2. The decedent's children if the decedent ~~shall leave~~ leaves no surviving spouse or domestic partner under ch. 770.

SECTION 64. 103.165 (3) (a) 3. of the statutes is amended to read:

103.165 **(3)** (a) 3. The decedent's father or mother if the decedent ~~shall leave~~ leaves no surviving spouse, domestic partner under ch. 770, or children.

SECTION 65. 103.165 (3) (a) 4. of the statutes is amended to read:

103.165 **(3)** (a) 4. The decedent's brother or sister if the decedent ~~shall leave~~ leaves no surviving spouse, domestic partner under ch. 770, children, or parent.

SECTION 66. 103.165 (3) (c) of the statutes is amended to read:

103.165 **(3)** (c) The amount of the cash bond, together with principal and interest, to which the deceased employee would have been entitled had the deceased employee lived, shall, as soon as paid out by the depository, be turned over to the ~~relative of the deceased employee~~ person designated under par. (a) effecting the accounting and withdrawal with the employer. The turning over shall be a discharge and release of the employer to the amount of the payment.

SECTION 67. 103.165 (3) (d) of the statutes is amended to read:

103.165 **(3)** (d) If no ~~relatives~~ persons designated under par. (a) survive, the employer may apply the cash bond, or so much of the cash bond as may be necessary, to paying creditors of the decedent in the order of preference prescribed in s. 859.25 for satisfaction of debts by personal representatives. The making of payment under this paragraph shall be a discharge and release of the employer to the amount of the payment.

SECTION 68. 109.03 (3) (a) of the statutes is amended to read:

109.03 **(3)** (a) In case of the death of an employee to whom wages are due, the full amount of the wages due shall upon demand be paid by the employer to the spouse, domestic partner under ch. 770, children, or other dependent living with the employee at the time of death.

SECTION 69. 109.03 (3) (b) of the statutes is amended to read:

109.03 **(3)** (b) An employer may, not less than 5 days after the death of an employee and before the filing of a petition or application for administration of the decedent's estate, make payments of the wage due the deceased employee to the

spouse, domestic partner under ch. 770, children, parents, or siblings of the decedent, giving preference in the order listed.

SECTION 70. 109.03 (3) (c) of the statutes is amended to read:

109.03 **(3)** (c) If none of the ~~relatives~~ persons listed in par. (b) survives, the employer may apply the payment of the wage or so much of the wage as may be necessary to paying creditors of the decedent in the order of preference prescribed in s. 859.25 for satisfaction of debts by personal representatives.

SECTION 71. 146.81 (5) of the statutes is amended to read:

146.81 **(5)** "Person authorized by the patient" means the parent, guardian, or legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person vested with supervision of the child under s. 938.183 or 938.34 (4d), (4h), (4m), or (4n), the guardian of a patient adjudicated incompetent in this state, the personal representative ~~or,~~ spouse, or domestic partner under ch. 770 of a deceased patient, any person authorized in writing by the patient or a health care agent designated by the patient as a principal under ch. 155 if the patient has been found to be incapacitated under s. 155.05 (2), except as limited by the power of attorney for health care instrument. If no spouse or domestic partner survives a deceased patient, "person authorized by the patient" also means an adult member of the deceased patient's immediate family, as defined in s. 632.895 (1) (d). A court may appoint a temporary guardian for a patient believed incompetent to consent to the release of records under this section as the person authorized by the patient to decide upon the release of records, if no guardian has been appointed for the patient.

SECTION 72. 155.01 (12) of the statutes is repealed and recreated to read:

155.01 **(12)** "Relative" means an individual related by blood within the 3rd degree of kinship as computed under s. 990.001 (16); a spouse, domestic partner

under ch. 770, or an individual related to a spouse or domestic partner within the 3rd degree as so computed; and includes an individual in an adoptive relationship within the 3rd degree.

SECTION 73. 155.10 (2) (a) of the statutes is amended to read:

155.10 **(2)** (a) Related to the principal by blood, marriage, or adoption, or the domestic partner, under ch. 770, or the individual.

SECTION 74. 155.30 (1) (form) of the statutes is amended to read:

155.30 **(1)** (form)

"NOTICE TO PERSON

MAKING THIS DOCUMENT

YOU HAVE THE RIGHT TO MAKE DECISIONS ABOUT YOUR HEALTH CARE. NO HEALTH CARE MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND NECESSARY HEALTH CARE MAY NOT BE STOPPED OR WITHHELD IF YOU OBJECT.

BECAUSE YOUR HEALTH CARE PROVIDERS IN SOME CASES MAY NOT HAVE HAD THE OPPORTUNITY TO ESTABLISH A LONG-TERM RELATIONSHIP WITH YOU, THEY ARE OFTEN UNFAMILIAR WITH YOUR BELIEFS AND VALUES AND THE DETAILS OF YOUR FAMILY RELATIONSHIPS. THIS POSES A PROBLEM IF YOU BECOME PHYSICALLY OR MENTALLY UNABLE TO MAKE DECISIONS ABOUT YOUR HEALTH CARE.

IN ORDER TO AVOID THIS PROBLEM, YOU MAY SIGN THIS LEGAL DOCUMENT TO SPECIFY THE PERSON WHOM YOU WANT TO MAKE HEALTH CARE DECISIONS FOR YOU IF YOU ARE UNABLE TO MAKE THOSE DECISIONS PERSONALLY. THAT PERSON IS KNOWN AS YOUR HEALTH CARE AGENT. YOU SHOULD TAKE SOME TIME TO DISCUSS YOUR

THOUGHTS AND BELIEFS ABOUT MEDICAL TREATMENT WITH THE PERSON OR PERSONS WHOM YOU HAVE SPECIFIED. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF HEALTH CARE THAT YOU DO OR DO NOT DESIRE, AND YOU MAY LIMIT THE AUTHORITY OF YOUR HEALTH CARE AGENT. IF YOUR HEALTH CARE AGENT IS UNAWARE OF YOUR DESIRES WITH RESPECT TO A PARTICULAR HEALTH CARE DECISION, HE OR SHE IS REQUIRED TO DETERMINE WHAT WOULD BE IN YOUR BEST INTERESTS IN MAKING THE DECISION.

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT GIVES YOUR AGENT BROAD POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. IT REVOKES ANY PRIOR POWER OF ATTORNEY FOR HEALTH CARE THAT YOU MAY HAVE MADE. IF YOU WISH TO CHANGE YOUR POWER OF ATTORNEY FOR HEALTH CARE, YOU MAY REVOKE THIS DOCUMENT AT ANY TIME BY DESTROYING IT, BY DIRECTING ANOTHER PERSON TO DESTROY IT IN YOUR PRESENCE, BY SIGNING A WRITTEN AND DATED STATEMENT OR BY STATING THAT IT IS REVOKED IN THE PRESENCE OF TWO WITNESSES. IF YOU REVOKE, YOU SHOULD NOTIFY YOUR AGENT, YOUR HEALTH CARE PROVIDERS AND ANY OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY. IF YOUR AGENT IS YOUR SPOUSE <u>OR DOMESTIC PARTNER</u> AND YOUR MARRIAGE IS ANNULLED OR YOU ARE DIVORCED <u>OR THE DOMESTIC PARTNERSHIP IS TERMINATED</u> AFTER SIGNING THIS DOCUMENT, THE DOCUMENT IS INVALID.

YOU MAY ALSO USE THIS DOCUMENT TO MAKE OR REFUSE TO MAKE AN ANATOMICAL GIFT UPON YOUR DEATH. IF YOU USE THIS DOCUMENT TO MAKE OR REFUSE TO MAKE AN ANATOMICAL GIFT, THIS DOCUMENT

REVOKES ANY PRIOR RECORD OF GIFT THAT YOU MAY HAVE MADE. YOU MAY REVOKE OR CHANGE ANY ANATOMICAL GIFT THAT YOU MAKE BY THIS DOCUMENT BY CROSSING OUT THE ANATOMICAL GIFTS PROVISION IN THIS DOCUMENT.

DO NOT SIGN THIS DOCUMENT UNLESS YOU CLEARLY UNDERSTAND IT.

IT IS SUGGESTED THAT YOU KEEP THE ORIGINAL OF THIS DOCUMENT ON FILE WITH YOUR PHYSICIAN."

SECTION 75. 155.30 (3) (form) of the statutes is amended to read:

155.30 **(3)** (form)

POWER OF ATTORNEY FOR HEALTH CARE

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

CREATION OF POWER OF ATTORNEY FOR HEALTH CARE

I,.... (print name, address and date of birth), being of sound mind, intend by this document to create a power of attorney for health care. My executing this power of attorney for health care is voluntary. Despite the creation of this power of attorney for health care, I expect to be fully informed about and allowed to participate in any health care decision for me, to the extent that I am able. For the purposes of this document, "health care decision" means an informed decision to accept, maintain, discontinue or refuse any care, treatment, service or procedure to maintain, diagnose or treat my physical or mental condition.

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

DESIGNATION OF HEALTH CARE AGENT

If I am no longer able to make health care decisions for myself, due to my incapacity, I hereby designate.... (print name, address and telephone number) to be my health care agent for the purpose of making health care decisions on my behalf. If he or she is ever unable or unwilling to do so, I hereby designate.... (print name, address and telephone number) to be my alternate health care agent for the purpose of making health care decisions on my behalf. Neither my health care agent nor my alternate health care agent whom I have designated is my health care provider, an employee of my health care provider, an employee of a health care facility in which I am a patient or a spouse of any of those persons, unless he or she is also my relative. For purposes of this document, "incapacity" exists if 2 physicians or a physician and a psychologist who have personally examined me sign a statement that specifically expresses their opinion that I have a condition that means that I am unable to receive and evaluate information effectively or to communicate decisions to such an extent that I lack the capacity to manage my health care decisions. A copy of that statement must be attached to this document.

GENERAL STATEMENT OF AUTHORITY GRANTED

Unless I have specified otherwise in this document, if I ever have incapacity I instruct my health care provider to obtain the health care decision of my health care agent, if I need treatment, for all of my health care and treatment. I have discussed my desires thoroughly with my health care agent and believe that he or she understands my philosophy regarding the health care decisions I would make if I were able. I desire that my wishes be carried out through the authority given to my health care agent under this document.

If I am unable, due to my incapacity, to make a health care decision, my health care agent is instructed to make the health care decision for me, but my health care

agent should try to discuss with me any specific proposed health care if I am able to communicate in any manner, including by blinking my eyes. If this communication cannot be made, my health care agent shall base his or her decision on any health care choices that I have expressed prior to the time of the decision. If I have not expressed a health care choice about the health care in question and communication cannot be made, my health care agent shall base his or her health care decision on what he or she believes to be in my best interest.

LIMITATIONS ON MENTAL HEALTH TREATMENT

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

ADMISSION TO NURSING HOMES OR
COMMUNITY-BASED RESIDENTIAL FACILITIES

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

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

1. A nursing home — Yes.... No....

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

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

PROVISION OF A FEEDING TUBE

If I have checked "Yes" to the following, my health care agent may have a feeding tube withheld or withdrawn from me, unless my physician has advised that, in his or her professional judgment, this will cause me pain or will reduce my comfort. If I have checked "No" to the following, my health care agent may not have a feeding tube withheld or withdrawn from me.

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

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

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

HEALTH CARE DECISIONS FOR
PREGNANT WOMEN

If I have checked "Yes" to the following, my health care agent may make health care decisions for me even if my agent knows I am pregnant. If I have checked "No" to the following, my health care agent may not make health care decisions for me if my health care agent knows I am pregnant.

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

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

STATEMENT OF DESIRES,
SPECIAL PROVISIONS OR LIMITATIONS

In exercising authority under this document, my health care agent shall act consistently with my following stated desires, if any, and is subject to any special

provisions or limitations that I specify. The following are specific desires, provisions or limitations that I wish to state (add more items if needed):

1) -

2) -

3) -

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

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

(a) Request, review and receive any information, oral or written, regarding my physical or mental health, including medical and hospital records.

(b) Execute on my behalf any documents that may be required in order to obtain this information.

(c) Consent to the disclosure of this information.

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

SIGNATURE OF PRINCIPAL

(person creating the power of attorney for health care)

Signature.... Date....

(The signing of this document by the principal revokes all previous powers of attorney for health care documents.)

STATEMENT OF WITNESSES

I know the principal personally and I believe him or her to be of sound mind and at least 18 years of age. I believe that his or her execution of this power of attorney for health care is voluntary. I am at least 18 years of age, am not related to the

principal by blood, marriage, or adoption, am not the domestic partner of the principal, and am not directly financially responsible for the principal's health care. I am not a health care provider who is serving the principal at this time, an employee of the health care provider, other than a chaplain or a social worker, or an employee, other than a chaplain or a social worker, of an inpatient health care facility in which the declarant is a patient. I am not the principal's health care agent. To the best of my knowledge, I am not entitled to and do not have a claim on the principal's estate.

Witness No. 1:

(print) Name.... Date....

Address....

Signature....

Witness No. 2:

(print) Name.... Date....

Address....

Signature....

STATEMENT OF HEALTH CARE AGENT AND
ALTERNATE HEALTH CARE AGENT

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

Agent's signature....

Address....

Alternate's signature....

Address....

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

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

ANATOMICAL GIFTS (optional)

Upon my death:

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

.... I wish to donate any needed organ or part.

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

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

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

Signature.... Date....

SECTION 76. 155.40 (2) of the statutes is amended to read:

155.40 **(2)** If the health care agent is the principal's spouse or domestic partner under ch. 770 and, subsequent to the execution of a power of attorney for health care instrument, the marriage is annulled or divorce from the spouse is obtained or the domestic partnership under ch. 770 is terminated, the power of attorney for health care is revoked and the power of attorney for health care instrument is invalid.

SECTION 77. 157.05 of the statutes is amended to read:

157.05 Autopsy. Consent for a licensed physician to conduct an autopsy on the body of a deceased person shall be deemed sufficient when given by whichever one of the following assumes custody of the body for purposes of burial: Father, mother, husband, wife, child, guardian, next of kin, domestic partner under ch. 770, or in the absence of any of the foregoing, a friend, or a person charged by law with the responsibility for burial. If 2 or more such persons assume custody of the body, the consent of one of them shall be deemed sufficient.

SECTION 78. 157.06 (9) (a) 2. of the statutes is amended to read:

157.06 **(9)** (a) 2. The spouse or domestic partner under ch. 770 of the individual.

SECTION 79. 243.10 (1) (form) of the statutes is amended to read:

243.10 **(1)** (form)

WISCONSIN BASIC POWER OF ATTORNEY

FOR FINANCES AND PROPERTY

NOTICE: THIS IS AN IMPORTANT DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS. BY SIGNING THIS DOCUMENT, YOU ARE NOT GIVING UP ANY POWERS OR RIGHTS TO CONTROL YOUR FINANCES AND PROPERTY YOURSELF. IN ADDITION TO YOUR OWN POWERS AND RIGHTS, YOU ARE GIVING ANOTHER PERSON, YOUR AGENT, BROAD POWERS TO HANDLE YOUR FINANCES AND PROPERTY. THIS BASIC POWER OF ATTORNEY FOR FINANCES AND PROPERTY MAY GIVE THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR FINANCES AND PROPERTY, WHICH MAY INCLUDE POWERS TO ENCUMBER, SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. THE POWERS WILL EXIST AFTER

YOU BECOME DISABLED, OR INCAPACITATED, IF YOU CHOOSE THAT PROVISION. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH CARE DECISIONS FOR YOU. IF YOU OWN COMPLEX OR SPECIAL ASSETS SUCH AS A BUSINESS, OR IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN THIS FORM TO YOU BEFORE YOU SIGN IT.

IF YOU WISH TO CHANGE YOUR BASIC POWER OF ATTORNEY FOR FINANCES AND PROPERTY, YOU MUST COMPLETE A NEW DOCUMENT AND REVOKE THIS ONE. YOU MAY REVOKE THIS DOCUMENT AT ANY TIME BY DESTROYING IT, BY DIRECTING ANOTHER PERSON TO DESTROY IT IN YOUR PRESENCE OR BY SIGNING A WRITTEN AND DATED STATEMENT EXPRESSING YOUR INTENT TO REVOKE THIS DOCUMENT. IF YOU REVOKE THIS DOCUMENT, YOU SHOULD NOTIFY YOUR AGENT AND ANY OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY OF THE FORM. YOU ALSO SHOULD NOTIFY ALL PARTIES HAVING CUSTODY OF YOUR ASSETS. THESE PARTIES HAVE NO RESPONSIBILITY TO YOU UNLESS YOU ACTUALLY NOTIFY THEM OF THE REVOCATION. IF YOUR AGENT IS YOUR SPOUSE OR DOMESTIC PARTNER AND YOUR MARRIAGE IS ANNULLED, ~~OR~~ YOU ARE DIVORCED, OR THE DOMESTIC PARTNERSHIP IS TERMINATED AFTER SIGNING THIS DOCUMENT, THIS DOCUMENT IS INVALID.

SINCE SOME 3RD PARTIES OR SOME TRANSACTIONS MAY NOT PERMIT USE OF THIS DOCUMENT, IT IS ADVISABLE TO CHECK IN ADVANCE, IF POSSIBLE, FOR ANY SPECIAL REQUIREMENTS THAT MAY BE IMPOSED.

YOU SHOULD SIGN THIS FORM ONLY IF THE AGENT YOU NAME IS RELIABLE, TRUSTWORTHY AND COMPETENT TO MANAGE YOUR AFFAIRS.

I .... (insert your name and address) appoint .... (insert the name and address of the person appointed) as my agent to act for me in any lawful way with respect to the powers initialed below. If the person appointed is unable or unwilling to act as my agent, I appoint .... (insert name and address of alternate person appointed) to act for me in any lawful way with respect to the powers initialed below.

TO GRANT ONE OR MORE OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

HANDLING MY MONEY AND PROPERTY

Initials

_____ 1. *PAYMENTS OF BILLS:* My agent may make payments that are necessary or appropriate in connection with the administration of my affairs.

_____ 2. *BANKING:* My agent may conduct business with financial institutions, including endorsing all checks and drafts made payable to my order and collecting the proceeds; signing in my name checks or orders on all accounts in my name or for my benefit; withdrawing funds from accounts in my name; opening accounts in my name; and entering into and removing articles from my safe deposit box.

_____ 3. *INSURANCE:* My agent may obtain insurance of all types, as considered necessary or appropriate, settle and adjust insurance claims and borrow from insurers and 3rd parties using insurance policies as collateral.

_____ 4. *ACCOUNTS:* My agent may ask for, collect and receive money, dividends, interest, legacies and property due or that may become due and owing to me and give receipt for those payments.

_____ 5. *REAL ESTATE:* My agent may manage real property; sell, convey and mortgage realty for prices and on terms as considered advisable; foreclose mortgages and take title to property in my name; and execute deeds, mortgages, releases, satisfactions and other instruments relating to realty.

_____ 6. *BORROWING:* My agent may borrow money and encumber my assets for loans as considered necessary.

_____ 7. *SECURITIES:* My agent may buy, sell, pledge and exchange securities of all kinds in my name; sign and deliver in my name transfers and assignments of securities; and consent in my name to reorganizations, mergers or exchange of securities for new securities.

_____ 8. *INCOME TAXES:* My agent may make and sign tax returns; represent me in all income tax matters before any federal, state, or local tax collecting agency; and receive confidential information and perform any acts that I may perform, including receiving refund checks and the signing of returns.

_____ 9. *TRUSTS:* My agent may transfer at any time any of my property to a living trust that has been established by me before the execution of this document.

PROFESSIONAL AND TECHNICAL ASSISTANCE

Initials

_____ 10. *LEGAL ACTIONS:* My agent may retain attorneys on my behalf; appear for me in all actions and proceedings to which I may be a party; commence actions and proceedings in my name; and sign in my name all documents or pleadings of every description.

_____ 11. *PROFESSIONAL ASSISTANCE:* My agent may hire accountants, attorneys, clerks, workers and others for the management, preservation and protection of my property and estate.

GENERAL AUTHORITY

Initials

_____ 12. *GENERAL:* My agent may do any act or thing that I could do in my own proper person if personally present, including managing or selling tangible assets, disclaiming a probate or nonprobate inheritance and providing support for a minor child or dependent adult. The specifically enumerated powers of the basic power of attorney for finances and property are not a limitation of this intended broad general power except that my agent may not take any action prohibited by law and my agent under this document may not:

a. Make medical or health care decisions for me.

b. Make, modify or revoke a will for me.

c. Other than a burial trust agreement under section 445.125, Wisconsin Statutes, enter into a trust agreement on my behalf or amend or revoke a trust agreement, entered into by me.

d. Change any beneficiary designation of any life insurance policy, qualified retirement plan, individual retirement account or payable on death account or the like whether directly or by canceling and replacing the policy or rollover to another plan or account.

e. Forgive debts owed to me or disclaim or waive benefits payable to me, except a probate or nonprobate inheritance.

f. Appoint a substitute or successor agent for me.

g. Make gifts.

COMPENSATION TO AGENT FROM PRINCIPAL'S FUNDS

Initials

_____ 13. *COMPENSATION.* My agent may receive compensation only in an amount not greater than that usual for the services to be performed if expressly authorized in the special instructions portion of this document.

ACCOUNTING

Initials

_____ 14. *ACCOUNTING.* My agent shall render an accounting (monthly) (quarterly) (annually) (CIRCLE ONE) to me or to .... (insert name and address) during my lifetime and a final accounting to the personal representative of my estate, if any is appointed, after my death.

NOMINATION OF GUARDIAN

Initials

_____ 15. *GUARDIAN:* If necessary, I nominate .... (name) of .... (address) as guardian of my person and I nominate .... (name) of .... (address) as guardian of my estate.

SPECIAL INSTRUCTIONS

Initials

_____ 16. *SPECIAL INSTRUCTIONS:*

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS REGARDING THE POWERS GRANTED TO YOUR AGENT.

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TO ESTABLISH WHEN, AND FOR HOW LONG, THE BASIC POWER OF ATTORNEY FOR FINANCES AND PROPERTY IS IN EFFECT, YOU MUST INITIAL ONLY ONE OF THE FOLLOWING 3 OPTIONS. IF YOU DO NOT INITIAL ONE, OR IF YOU INITIAL MORE THAN ONE, THIS BASIC POWER OF ATTORNEY FOR FINANCES AND PROPERTY WILL NOT TAKE EFFECT.

Initials

_____ This basic power of attorney for finances and property becomes effective when I sign it and will continue in effect as a durable power of attorney under section 243.07, Wisconsin Statutes, if I become disabled or incapacitated.

_____ This basic power of attorney for finances and property becomes effective only when both of the following apply:

a. I have signed it; and

b. I become disabled or incapacitated.

_____ This basic power of attorney for finances and property becomes effective when I sign it BUT WILL CEASE TO BE EFFECTIVE IF I BECOME DISABLED OR INCAPACITATED.

I agree that any 3rd party who receives a copy of this document may act under it. Revocation of this basic power of attorney is not effective as to a 3rd party until the 3rd party learns of the revocation. I agree to reimburse the 3rd party for any loss

resulting from claims that arise against the 3rd party because of reliance on this basic power of attorney.

Signed this .... day of ...., (year)

....

(Your Signature)

....

(Your Social Security Number)

By signing as a witness, I am acknowledging the signature of the principal who signed in my presence and the presence of the other witness, and the fact that he or she has stated that this power of attorney reflects his or her wishes and is being executed voluntarily. I believe him or her to be of sound mind and capable of creating this power of attorney. I am not related to him or her by blood, marriage or adoption, and, to the best of my knowledge, I am not entitled to any portion of his or her estate under his or her will.

Witness	**Witness**
Dated:	Dated: ....
Signature:	Signature: ....
Print Name:	Print Name: ....
Address:	Address: ....

State of ....

County of ....

This document was acknowledged before me on .... (date) by .... (name of principal).

....

(Signature of Notarial Officer)

(Seal, if any)

(Title)

[My commission is permanent or expires: ....]

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES AND LIABILITIES OF AN AGENT.

....

(Name of Agent)

....

(Signature of Agent)

This document was drafted by .... (signature of person preparing the document).

SECTION 80. 243.10 (7) (b) of the statutes is amended to read:

243.10 **(7)** (b) A principal may revoke a Wisconsin basic power of attorney for finances and property and invalidate it at any time by destroying it, by directing another person to destroy it in the principal's presence or by signing a written and dated statement expressing the principal's intent to revoke. If the agent under the Wisconsin basic power of attorney for finances and property is the principal's spouse and the marriage is annulled, or the agent and principal are divorced, or the agent is the principal's domestic partner under ch. 770 and the domestic partnership is terminated under s. 770.12, after signing the document, the Wisconsin basic power of attorney for finances and property is invalid.