

## 1999 DRAFTINGREQUEST

**Bill**Received: **09/16/1998**Received By: **kahlepj**Wanted: **As time permits**

Identical to LRB:

For: **Frank Boyle (608) 266-0640**By/Representing: **himself**

This file may be shown to any legislator: NO

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Dom. Rel. - miscellaneous**

Extra Copies:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Domestic partnership; create procedure for forming and specify rights and responsibilities

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**Instructions:**

See Attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
I?	kahlepj 10/01/1998	gilfokm 10/05/1998		_____			
/P1	kahlepj 10/13/1999	jgeller 10/13/1999	ismith 10/05/1998	_____	lrb-docadmin 10/05/1998		S&L
/1			mclark 10/13/1999	_____	lrb-docadmin 10/14/1999		S&L
/2	kahlepj 10/14/1999	jgeller 10/14/1999	hhagen 10/14/1999	_____	lrb-docadmin 10/14/1999		S&L
/3	kahlepj	j geller	hhagen	_____	lrb-docadmin	lrb-docadmin	

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	10/15/1999	10/15/1999	10/15/1999	_____	10/15/1999	10/19/1999	

FE Sent For:

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dh 10/15      dh/JP 10/15

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/1		1/2 10/14 jlg	mclark 10/13/1999	_____	lrb-docadmin 10/14/1999		

all 10/14 all 10/14

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/P1		1/13 jlg	ismith 10/5/98	_____	lrb_docadmin 10/5/98		
FE Sent For:			MRC 10/13	MRC/ KJF 10/13			

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1?	kahlepj	10-5-98 Kong	IS 10/5	IS/KM 10/5			

DO  
1  
SUBMIT  
P'S

FE Sent For:

<END>

before last sentence

= 770.10 n at end: upon filing ... the  
prop completed d p d, to end  
should be

see def of d p

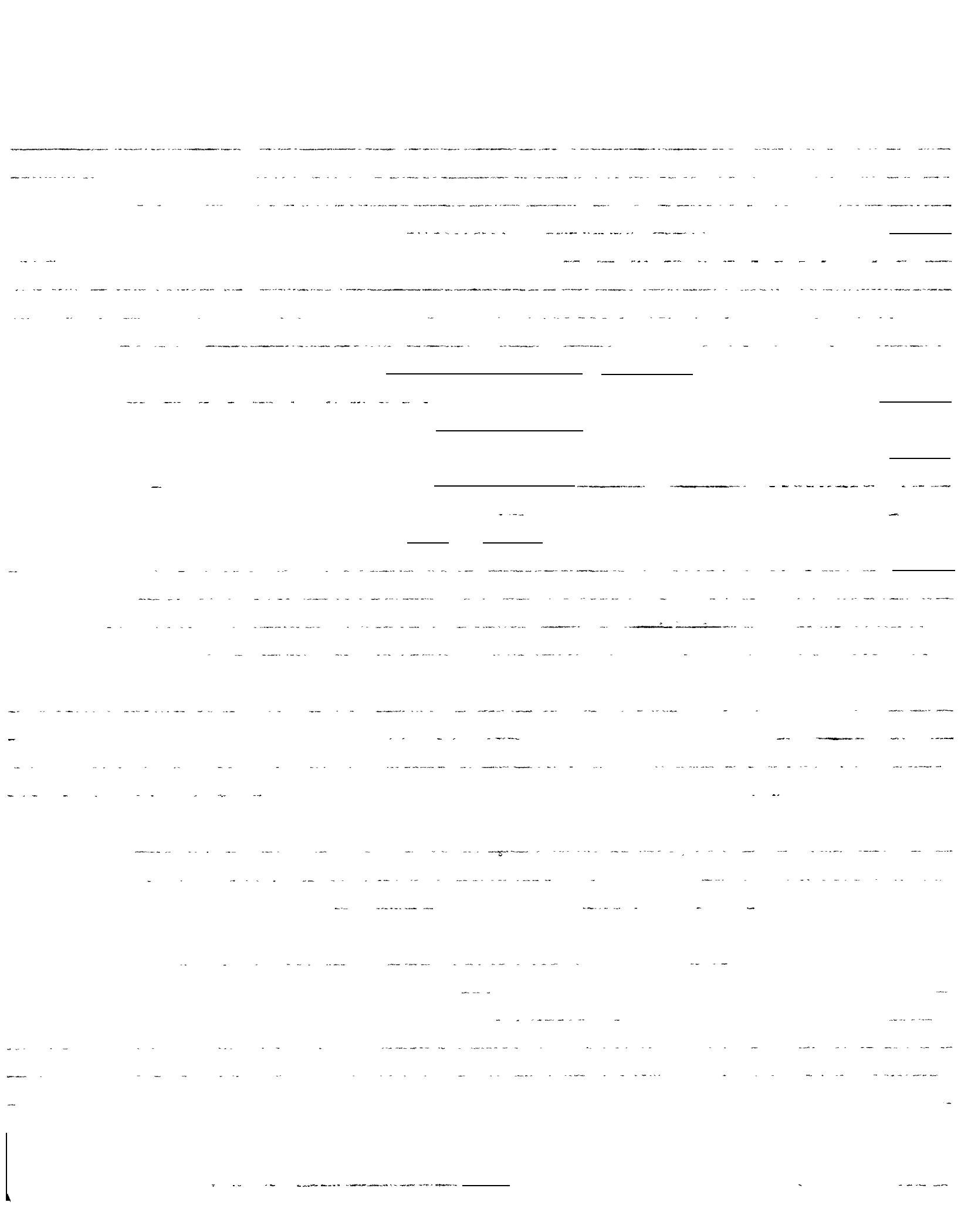
= 770.20 take out first sentence entirely

- ① p.2 ~~all~~ all criteria be same as marriage  
same fee as marriage (and the split the  
same)
- ② p.3 ~~get rid of first sentence in 770.20~~  
(not be "considered" married persons)

~~all~~

→ waiting period, etc.

as to requirements for marriage license



possible termination time — w/ renewal option  
but could divorce earlier, if necessary

---

\* there may be (such as private ins. coverage)  
some rights or responsibilities that  
normally accrue to spouses  
that are not statutory

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in financial reporting and compliance with regulatory requirements. The text notes that incomplete or inconsistent records can lead to significant legal and financial consequences for the organization.

2. The second section focuses on the role of internal controls in preventing fraud and errors. It describes how a robust system of internal controls, including segregation of duties, authorization procedures, and regular audits, can significantly reduce the risk of misstatements and financial loss. The document stresses that these controls should be tailored to the specific risks and operations of the organization.

3. The third part of the document addresses the challenges of data management in a digital age. It highlights the need for secure and reliable data storage solutions, as well as the importance of data backup and recovery procedures. The text also discusses the implications of data privacy regulations, such as the GDPR, and the need for organizations to implement appropriate data protection measures to safeguard sensitive information.

4. The final section discusses the importance of regular communication and reporting to stakeholders. It emphasizes that timely and accurate reporting is crucial for building trust and maintaining the confidence of investors, regulators, and other interested parties. The document suggests that organizations should establish clear communication channels and reporting schedules to ensure that all relevant information is shared in a consistent and transparent manner.

(221 North)

\* NOTE: has not gone through edit, etc

add req. of deeds duty = ch. 59 ?

add to clerk? (talk to MES about this)

fees?

keeping documents?

additional categories:

marriage license applicants

marriage lic. applications

marital property, income, account

marital status

marital died (arising out of ~~the~~ status of being married)

word "marital" → 464

word "marriage" → 436

etc.



Spouse includes

husband includes  
wife includes  
widow, widower

married persons (persons)  
family members

~~includes~~

→ unless prohibited by  
fed law...  
84.30(3)(i)  
if applicable...  
unless the context...

husband(wife)

~~29.092(3)(4)~~

- 29.138(2)(i)
- 29.139(2)(f)
- 49.141(1)(j) 2.
- 71.07(5m)(a) 3.
- 77.25(8m)
- 102.51(1)(a) 2.
- 810.39(3)

additional  
(passed since  
other has  
dropped)

except in ch. ~~765~~  
marriage

widow\*

- 45.37(6)(a)
- 706.09(1)(e)



Boyle  
221 North  
Manlyton

who may form one  
how one is formed

the effects of formation (responsibilities, rights)  
how to dissolve one  
effects of dissolution

→ anything that married persons have

marital property  
insurance  
etc.

trust (state)

divorce procedure

i.e., same/different, doesn't matter

regardless of gender

same as normal document

country sale to state  
register

same channels as marriage  
county clerk  
state register

"Spouse"

"Married"

"Marriage"

Mental

Marries

Marriages

prim. in ch. 990

" " includes

dom.ship

prim applicable chapters

✓ Husband

Wife

Spouse

Family

Marimony

✓ Widow /widower





**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 **AN ACT . . . relating to:** domestic partnership.

---

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.

---

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

2 **SECTION 1.** Chapter 770 of the statutes is created to read:

3 **CHAPTER 770**

4 **DOMESTIC PARTNERSHIP**

5 **770.01 Definitions.** In this chapter:

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

9 (2) "Domestic partnership" means the legal relationship that is formed  
10 between 2 individuals under this chapter.

1           **770.05 Criteria for forming a domestic partnership.** Two individuals may  
2 form a domestic partnership if they fulfill all of the following criteria:

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

5           (2) The 2 individuals share a residence.

6           (3) Neither individual is married to, or registered in a domestic partnership  
7 with, another individual.

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

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

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

14           **770.07 Application. (1)** Individuals who wish to form a domestic partnership  
15 shall apply to the county clerk of the county in which they reside for a declaration  
16 of domestic partnership. Each party shall present satisfactory, documentary proof  
17 of identification and residence and shall swear (or affirm) to the application before  
18 the clerk who is to issue the domestic partnership declaration. The application shall  
19 contain such informational items as the department of health and family services  
20 directs. Each applicant under 30 years of age shall exhibit to the county clerk a  
21 certified copy of a birth certificate.

22           (2) Upon completion of the application under sub. (1), the clerk shall issue to  
23 the individuals a declaration of domestic partnership form.

24           **770.10 Completion and filing of declaration.** In order to form the legal  
25 status of domestic partners, the individuals shall complete the declaration of

*same manner as they apply to married persons*

1 domestic partnership, sign the declaration, having their signatures acknowledged  
2 before a notary, and file the declaration in the office of the register of deeds of the  
3 county in which they reside. After filing the declaration, the register of deeds shall  
4 forward the original to the state registrar of vital statistics.

5 **770.15 Forms for declaration. (1)** The application and declaration of  
6 domestic partnership under s. 770.07 shall contain such information as the  
7 department of health and family services determines is necessary. The form for the  
8 declaration of domestic partnership shall require both individuals forming a  
9 domestic partnership to sign the form and attest to fulfilling all of the criteria under  
10 s. 770.05 (1) to (6).

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

\*\*\*\*NOTE: Do you want the county clerk to be able to charge a fee? If so, how much?  
Would the county retain the entire amount? Would the fee be split between the state and  
the county? See s. 765.15, stats.

13 **770.20 Effect of forming domestic partnership. (1)** Upon filing a properly  
14 completed domestic partnership declaration with the county register of deeds, the  
15 domestic partners shall, for all purposes under the statutes, be considered married  
16 persons. Except in ch. 765, any statute that applies to a married person; including  
17 but not limited to a spouse; husband, if appropriate; wife, if appropriate; widow, if  
18 appropriate; widower, if appropriate; or family member that includes a spouse;  
19 applies in the same respect to a domestic partner. Except in ch. 765, any statute that  
20 applies to marriage or the marital relationship or status applies in the same respect  
21 to domestic partnership. Except in ch. 765, any statute that applies to a marriage  
22 document applies in the same respect to a domestic partnership declaration.

*apply to domestic partners and to a spouse in the same  
manner as they apply to a wife and to a husband*

**\*\*\*NOTE:** Do you want to delay the effective date? Do you want to require DHFS to prepare and distribute the domestic partnership forms by a certain date?

**(END)**



PRELIMINARY **DRAFT** - NOT READY FOR INTRODUCTION

*D-note*  
*for cost*

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9 (2) "Domestic partnership" means the legal relationship that is formed  
10 between 2 individuals under this chapter.



1 **770.05 Criteria for forming a domestic partnership.** Two individuals may  
2 form a domestic partnership if they fulfill all of the following criteria:

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

5 (2) The 2 individuals share a residence.

6 (3) Neither individual is married to, ~~or~~ registered in a domestic partnership  
7 with, another individual. *skt*

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

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

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

14 **770.07 Application.** (1) <sup>(a)</sup> Individuals who wish to form a domestic partnership

15 shall apply ~~to the county clerk of the county in which they reside~~ for a declaration

16 of domestic partnership. <sup>insert 2-16</sup> Each party shall present satisfactory, documentary proof

17 of identification and residence and shall swear (or affirm) to the application before  
18 the clerk who is to issue the domestic partnership declaration. The application shall  
19 contain such informational items as the department of health and family services  
20 directs. Each applicant under 30 years of age shall exhibit to the county clerk a  
21 certified copy of a birth certificate.

22 (2) Upon completion of the application under sub. (1), the clerk shall issue to  
23 the individuals a declaration of domestic partnership form.

24 **770.10 Completion and filing of declaration.** In order to form the legal

25 status of domestic partners, the individuals shall complete the declaration of

1 domestic partnership, sign the declaration, having their signatures acknowledged  
2 before a notary, and file the declaration in the office of the register of deeds of the  
3 county in which they reside. After filing the declaration, the register of deeds shall  
4 forward the original to the state registrar of vital statistics.

5 **770.15 Forms for declaration. (1)** The application and declaration of  
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7 department of health and family services determines is necessary. The form for the  
8 declaration of domestic partnership shall require both individuals forming a  
9 domestic partnership to sign the form and attest to fulfilling all of the criteria under  
10 s. 770.05 (1) to (6).

11 (2) The department of health and family services shall distribute forms under  
12 sub. (1) to each county clerk.

13 (3) The secretary of state may establish a fee to be charged for a copy of the form  
14 under this section to pay for the secretary's cost of preparing the form.

Insert 3-12

15 **770.20 Effect of forming domestic partnership.** ~~When filing a properly~~

16 ~~completed domestic partnership declaration with the county register of deeds, the~~  
17 ~~domestic partners shall, for all purposes under the statutes, be considered married~~

18 ~~persons.~~ Except in ch. 765, any statute that applies to a married person; including  
19 but not limited to a spouse; husband, if appropriate; wife, if appropriate; widow, if  
20 appropriate; widower, if appropriate; or family member that includes a spouse;  
21 applies in the same respect to a domestic partner. Except in ch. 765, any statute that  
22 applies to marriage <sup>a</sup> or marital relationship applies in the same respect to a domestic  
23 partnership. Except in ch. 765, any statute that applies to a marriage document  
24 applies in the same respect to a domestic partnership ~~declaration.~~

state or

6

license,

(END)

declaration of

D-note

22  
23  
24

25



INSERT 2-16 ✓

1002

no 42

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

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

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

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

14 (d) Each party shall present satisfactory, documentary proof of identification  
15 and residence and shall swear ~~for~~ ~~affirm~~ ~~to~~ to the application before the clerk who is  
16 to issue the declaration of domestic partnership. In addition to the social security  
17 number of each party who has a social security number, the application shall contain  
18 such informational items as the department of health and family services directs.  
19 The portion of the application form that is collected for statistical purposes only shall  
20 indicate that the address of an applicant may be provided by a county clerk to a law  
21 enforcement officer under the conditions specified under s. 770.18 (2). Each  
22 applicant <sup>who is</sup> under 30 years of age shall exhibit to the clerk a certified copy of a birth  
23 certificate, and any applicants shall submit a copy of any judgments or a death

↓

ens 2-16 cont

2072

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

6 (2) If sub. (1) and s. 770.05 are complied with, the county clerk shall issue a  
7 declaration of domestic partnership. With each declaration of domestic partnership  
8 the county clerk shall provide a pamphlet describing the causes and effects of fetal  
9 alcohol syndrome. After the application for the declaration of domestic partnership  
10 the clerk shall, upon the sworn statement of either of the applicants, correct any  
11 erroneous, false or insufficient statement in the application which shall come to the  
12 clerk's attention and shall show the corrected statement as soon as reasonably  
13 possible to the other applicant,

(END OF INSERT Z-16)

INSERT 3-12 ✓

1072

14 **770.17 Fee to county clerk.** Each county clerk shall receive as a fee for each  
15 declaration of domestic partnership issued the sum of \$49.50, of which \$24.50 shall  
16 become a part of the funds of the county and \$25 shall be paid into the state treasury.  
17 A county board may increase the license fee of \$49.50 by any amount, which amount  
18 shall become a part of the funds of the county For each declaration of domestic  
19 partnership issued, the clerk shall also receive a standard notary fee of 50 cents,  
20 which may be retained by the clerk if the clerk is operating on a fee or part-fee basis  
21 but which otherwise shall become part of the funds of the county.

*Ins. 3-12 contd*

*2002*

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

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

(END OF INSERT 3-12)

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

LRB-01897dn P1

PJK.....  
KMG

In this draft, I have removed the language related to domestic partners being considered married persons. I have also added the majority of the requirements that apply to marriage licenses (I did not add those that did not seem to relate to domestic partnerships). One requirement is that the county clerk provide the parties with a pamphlet about the causes and effects of fetal alcohol syndrome. Do you want to keep this requirement?

Pamela J. Kahler  
Senior Legislative Attorney  
266-2682

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

LRB-0189/P1dn  
PJK:kmg:ijs

October 5, 1998

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33RD DOCUMENT of Level 1 printed in FULL format.

IOWA ADVANCE LEGISLATIVE SERVICE  
STATENET  
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IOWA 77TH GENERAL ASSEMBLY - SECOND SESSION

HOUSE FILE 382

1997 Ia. HF 382

SYNOPSIS: AN ACT RELATING TO CERTAIN RELATIONSHIPS INCLUDING CERTAIN MARRIAGES.

NOTICE:

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]

[D> Text within these symbols is deleted <D]

-----  
To view the next section, type .np\* TRANSMIT.

To view a specific section, transmit p\* and the section number. e.g. p\*1  
-----

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

[\*1] Section 1. Section 595.2, Code 1997, is amended to read as follows:

595.2 AGE [A> -- GENDER <A] .

[A> 1. <A] [D> A <D] [A> ONLY A <A] marriage between a male and a female [D> each eighteen years of age or older <D] is valid.

[A> 2. <A] [D> A <D] [A> ADDITIONALLY, A <A] marriage between a male and a female [A> IS VALID ONLY IF EACH IS EIGHTEEN YEARS OF AGE OR OLDER. HOWEVER, IF <A] either or both of [D> whom <D] [A> THE PARTIES <A] have not attained that age [A> , THE MARRIAGE <A] may be valid under the circumstances prescribed in this section.

[D> 1 <D] [A> 3 <A] . If either party to a marriage falsely represents the party's self to be eighteen years of age or older at or before the time the marriage is solemnized, the marriage is valid unless the person who falsely represented their age chooses to void the marriage by making their true age known and verified by a birth certificate or other legal evidence of age in an annulment proceeding initiated at any time before the person reaches their eighteenth birthday. A child born of a marriage voided under this subsection is legitimate.

[D> 2 <D] [A> 4 <A] . A marriage license may be issued to a male and a female either or both of whom are sixteen or seventeen years of age if:

a. The parents of the underaged party or parties certify in writing that they consent to the marriage. If one of the parents of any underaged party to a

## 1997 Ia. HF 382, \*1

proposed marriage is dead or incompetent the certificate may be executed by the other parent, if both parents are dead or incompetent the guardian of the underaged party may execute the certificate, and if the parents are divorced the parent having legal custody may execute the certificate and

b. The certificate of consent of the parents, parent [A> , <A] or guardian is approved by a judge of the district court or, if both parents of any underaged party to a proposed marriage are dead, incompetent [A> , <A] or cannot be located and the party has no guardian, the proposed marriage is approved by a judge of the district court. A judge shall grant approval under this subsection only if the judge finds the underaged party or parties capable of assuming the responsibilities of marriage and that the marriage will serve the best interest of the underaged party or parties. Pregnancy alone does not establish that the proposed marriage is in the best interest of the underaged party or parties, however [A> , <A] if pregnancy is involved the court records which pertain to the fact that the female is pregnant shall be sealed and available only to the parties to the marriage or proposed marriage or to any interested party securing an order of the court.

c. If a parent or guardian withholds consent, the judge upon application of a party to a proposed marriage shall determine if the consent has been unreasonably withheld. If the judge so finds, the judge shall proceed to review the application under paragraph "b" [D> of this subsection <D] .

[\*2] Sec. 2. Section 595.3, subsection 2, Code 1997, is amended to read as follows:

2. Where either party is under eighteen years of age, unless the marriage is approved by a judge of the district court as provided by section 595.2 [D>, subsection 2 <D] .

[\*3] Sec. 3. NEW SECTION. 595.20 FOREIGN MARRIAGES -- VALIDITY.

A marriage which is solemnized in any other state, territory, country, or any foreign jurisdiction which is valid in that state, territory, country, or other foreign jurisdiction, is valid in this state if the parties meet the requirements for validity pursuant to section 595.2, subsection 1, and if the marriage would not otherwise be declared void.

[\*4] Sec. 4. TASK FORCE -- DOMESTIC PARTNERS. The legislative council is requested to establish an interim task force to review the issues faced by domestic partners including but not limited to property rights, access to courts, parentage, inheritance, hospital or health care facility visitation, health decisions, contract rights, workplace benefits, insurance coverage, and retirement benefits. The task force shall include representatives of the legal profession, the courts, insurance, business and industry, labor, consumers who are domestic partners, and others with interest or expertise in this area. The task force shall submit a report of recommendations concerning these issues and recommendations for any necessary legislation to the general assembly by January 1, 1999.

HISTORY:

Approved by the Governor April 15, 1998

SPONSOR: Committee on Judiciary

OR

OREGON ADVANCE LEGISLATIVE SERVICE  
STATENET  
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OREGON 70TH LEGISLATIVE ASSEMBLY

CHAPTER 317

SENATE BILL 361

1999 Ore. ALS 317; 1999 Ore. Laws 317; 1999 Ore. SB 361

SYNOPSIS: AN ACT Relating to public employee retirement; creating new provisions; amending ORS 236.620, 238.005, 238.095, 238.145, 238.265, 238.305, 238.325, 238.410, 238.415, 238.420, 238.440, 238.535, 238.545, 238.565, 238.580, 238.600, 238.650, 238.660 and 526.052; repealing ORS 238.620 and 238.625; appropriating money; and declaring an emergency.

NOTICE:

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]  
[D> Text within these symbols is deleted <D]

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To view the next section, type .np\* TRANSMIT.  
To view a specific section, transmit p\* and the section number. e.g. p\*1  
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Be It Enacted by the People of the State of Oregon:

[A> WRITTEN PLAN DOCUMENT REQUIREMENT <A]

[\*1] SECTION 1. ORS 238.650 is amended to read:

238.650. [A> (1) <A] Subject to the limitations of this chapter, the [D> board <D] [A> PUBLIC EMPLOYEES RETIREMENT BOARD <A] shall, from time to time,

[A] WRITTEN PLAN DOCUMENT REQUIREMENT <A]

[\*1] SECTION 1. ORS 238.650 is amended to read:

238.650. [A] (1) <A] Subject to the limitations of this chapter, the [D] board <D] [A] PUBLIC EMPLOYEES RETIREMENT BOARD <A] shall, from time to time, establish rules for transacting its business and administering the system in accordance with the requirements of ORS 183.310 to 183.550.

[A] (2) ALL RULES ADOPTED BY THE BOARD BECOME PART OF THE WRITTEN PLAN DOCUMENT OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM FOR THE PURPOSE OF THE STATUS OF THE SYSTEM AND THE PUBLIC EMPLOYEES RETIREMENT FUND AS A QUALIFIED GOVERNMENTAL RETIREMENT PLAN AND TRUST UNDER THE INTERNAL REVENUE CODE AND UNDER REGULATIONS ADOPTED PURSUANT TO THE INTERNAL REVENUE CODE. <A]

[A] EXCLUSION OF EMPLOYER OR EMPLOYEE FROM SYSTEM <A]

[\*2] SECTION 2. [A] SECTION 3 OF THIS 1999 ACT IS ADDED TO AND MADE A PART OF ORS CHAPTER 238. <A]

[\*3] SECTION 3. [A] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PUBLIC EMPLOYEES RETIREMENT BOARD MAY DENY OR TERMINATE PARTICIPATION BY AN EMPLOYER IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM, AND MAY DENY OR TERMINATE MEMBERSHIP IN THE SYSTEM FOR ANY EMPLOYEE, IF THE BOARD DETERMINES THAT ALLOWING PARTICIPATION BY THE EMPLOYER OR MEMBERSHIP FOR THE EMPLOYEE WOULD CAUSE THE SYSTEM OR THE PUBLIC EMPLOYEES RETIREMENT FUND TO LOSE QUALIFICATION AS A QUALIFIED GOVERNMENTAL RETIREMENT PLAN AND TRUST UNDER THE INTERNAL REVENUE CODE AND UNDER REGULATIONS ADOPTED PURSUANT TO THE INTERNAL REVENUE CODE. <A]

[\*4] SECTION 4. ORS 236.620 is amended to read:

236.620. [A] (1) <A] A public employer who receives a transferred employee under ORS 236.610 (1), including an employee whose transfer is provided for by an agreement under ORS 190.010, shall place that employee on its employee roster, subject to the following:

[D] (1) <D] [A] (A) <A] If the employee was serving a probationary period with the employer at the time of transfer, the past service of the employee on

deemed paid in the periods in which the work was done or in which it would have been done.

(c) 'Salary' or 'other advantages' does not include:

(A) Travel or any other expenses incidental to employer's business which is reimbursed by the employer;

(B) Payments for insurance coverage by an employer on behalf of employee or employee and dependents, for which the employee has no cash option;

(C) Payments made on account of an employee's death;

(D) Any lump sum payment for accumulated unused sick leave;

(E) Any accelerated payment of an employment contract for a future period or an advance against future wages;

(F) Any retirement incentive, retirement severance pay, retirement bonus or retirement gratuitous payment;

(G) Payments for periods of leave of absence after the date the employer and employee have agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for sick leave and vacation; [D] or <D]

(H) Payments for instructional services rendered to institutions of the Department of Higher Education or the Oregon Health Sciences University when such services are in excess of full-time employment subject to this chapter. A person employed under a contract for less than 12 months is subject to this subparagraph only for the months to which the contract pertains [A] ; OR <A]

[A] (I) PAYMENTS MADE BY AN EMPLOYER FOR INSURANCE COVERAGE PROVIDED TO A DOMESTIC PARTNER OF AN EMPLOYEE <A] .

(12) The term 'volunteer firefighter' means a firefighter whose position normally requires less than 600 hours of service per year.

(13) The term 'school year' means the period beginning July 1 and ending June

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The Associated Press State & Local Wire

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September 3, 1999, Friday, AM cycle

SECTION: State and Regional

LENGTH: 599 words

HEADLINE: Conservative law group goes after domestic partnership in Mass.

BYLINE: By MELISSA B. ROBINSON, Associated Press Writer

DATELINE: WASHINGTON

BODY:

Plymouth County District Attorney Michael Sullivan says he's ready to create an exploratory committee for his possible run against Sen. Edward Kennedy.

But that doesn't mean he's made up his mind.

In fact, Sullivan - who plans to file papers creating the committee with the Federal Election Commission next week - said Friday that a decision is still weeks away.

"This is really just part and parcel of the thinking process," said Sullivan, 44, of Abington, Mass., a former three-term state Republican representative.

Sullivan hopes the committee will give him a better sense of whether he can raise the \$ 3.5 million he estimates is needed to mount a credible campaign against Kennedy.

He has been to Washington to confer with Republican strategists and fund-raisers and has consulted a slew of GOP officials in the state, including Gov . Paul Cellucci.

"You hear the clock kind of ticking in the background," Sullivan said in a telephone interview. Even so, "As long as you're laying the potential groundwork to run statewide, you really haven't lost any time by having an exploratory committee. It allows you to fully evaluate before making a decision."

Kennedy, one of the country's most prominent liberal Democrats, had \$ 2.4 million in his campaign fund as of June 30.

If Sullivan challenges Kennedy, it would be the first by a major elected official since Kennedy was first elected in 1962.

Beyond money, Sullivan said he's still considering the impact that a lengthy

campaign - and a career in Washington - would have on his wife and four children, ages 6 to 14.

As a decision gets closer, Sullivan says his three older children have sent a few discouraging signals. But not enough to convince him to stay out of the race.

"I can't say I'm any closer in terms of making a decision," he said. Creating the committee "might be helpful."

---

Conservative lawyers are trying to knock down domestic partnership ordinances in Massachusetts since the state's Supreme Judicial Court ruled against the city of Boston's.

The American Center for Law and Justice, founded by Pat Robertson, cites the Boston case as proof that localities don't have the authority to enact measures extending health benefits to the unmarried partners - heterosexual or homosexual - of city employees.

Ordinances "enacted by other Massachusetts localities directly counter existing state law and are simply an attempt to circumvent state marriage law ...." said Vincent McCarthy, a lawyer for the center.

Among the center's targets are ordinances in Brookline, Cambridge and Northampton, Mass., and in New York and California.

Jennifer Levi, a lawyer with Gay and Lesbian Advocates and Defenders, which intervened in the Boston case on behalf of a city worker and her partner, said the court's ruling had nothing to do with local authority.

The court, she said, found that the city couldn't pay health benefits to domestic partners because a state insurance law stipulates that only spouses, children under 19 or financially dependent children over 19 can receive such benefits.

To get around that decision, the state legislature would either have to change the insurance law or approve a home rule petition for the city. Such a petition was passed once, but vetoed by Gov. Paul Cellucci.

The center has "just built a cottage industry around undermining gay civil rights laws," said David Smith of the Human Rights Campaign, a gay rights group that contends such ordinances have been lawfully approved by numerous state and local governments. "They're just looking for things to do."

LANGUAGE: ENGLISH

LOAD-DATE: September 3, 1999

To be able to browse preceding or succeeding code sections, enter B. The first page of the document you are currently viewing will be displayed in FULL.

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Arkansas

LEVEL 1 - 6 OF 50 DOCUMENTS

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\*\*\* CURRENT THROUGH THE 1997 SUPPLEMENT \*\*\*

TITLE 9. FAMILY LAW  
SUBTITLE 2. DOMESTIC RELATIONS  
CHAPTER 11. MARRIAGE  
SUBCHAPTER 2. LICENSE AND CEREMONY

Ark. Stat. Ann. @ 9-11-222 (1997)

@ 9-11-222. Applicability of @ g-11-208.

However, nothing in 4 g-11-208 shall prevent an employer from extending benefits to persons who are domestic partners of employees.

HISTORY: Acts 1997, No. 146, @ 2.

NOTES:

A.C.R.C. NOTES. This section, codified in 1997, should have been noted under another section or merged with another section. The section has been codified as a separate section pursuant to @ 1-2-303.

USER NOTE: For more generally applicable notes, see notes under the first section of this part, article, subchapter, chapter, subtitle, or title.



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Canadian Employment Benefits & Pension Guide

August 16, 1999

SECTION: (465) August 16, 1999 pg 1

CBCA-ACC-NO: 4644442

LENGTH: 860 words

HEADLINE: The U.S. Approach to Benefits Coverage for Domestic (Same-Sex) Partners

(Record in progress)

BODY:

Although many companies deal head on with diversity issues in the workplace, or prohibit discrimination based on sexual orientation, most hesitate to offer medical, dental, or other benefits to domestic partners. And benefits for domestic partners will probably never be mainstream, according to respondents to a CENSUS survey on this issue from the International Society of Certified Employee Benefit Specialists (CEBS). Only 15 per cent of 459 respondents were associated with a company that offered domestic partner benefits and almost three-fourths said they had considered offering the benefits, but no longer were.

In recent years, municipalities have taken the lead in offering domestic partner benefits. In 1996, for example, the city of Atlanta passed an ordinance providing benefits for dependants of city employees. The constitutionality of this ordinance has been affirmed by Georgia's high court in *City of Atlanta v. Morgan*, Sup. Ct. Ga., Docket No. 897A1068, November 3, 1997. Also, a Colorado Court of Appeals has upheld a Denver ordinance that extends health and dental benefits to city employees having committed relationships with persons of the same gender in *Schaefer v. County of Denver*, Col. Ct. App. (1998), Dkt. No. 97CA1481, October 15, 1998. However, a District Court in California ruled that a San Francisco ordinance that barred the city from contracting with companies whose employee benefit plans discriminated between employees with spouses and employees with domestic partners was pre-empted by the Employee Retirement Income Security Act (ERISA). The court held that the ordinance related to an ERISA plan since it mandated employee benefit structures for city contractors (*Air Transport Assoc. of America v. County of San Francisco*, DC Cal (1998), Dkt. No. 97-1763, April 10, 1998.).

Definition of domestic partner

Some of the reason for the hesitation lies in the difficulty of defining a domestic partner. Most employers base definitions on some or all of the following elements of the partners (Source: Domestic Partners and Employee

## Canadian Employment Benefits &amp; Pension Guide August 16, 1999

Benefits 1994, Hewitt Associates, 100 Half Day Road, Lincolnshire, IL 60069) :

- must be over age 18
- must share a committed relationship
- must have an exclusive relationship
- must be financially interdependent.

About half the employers limit the definition to same-sex partners, while the other half does not (44 per cent and 51 per cent, respectively).

#### Legal definition of spouse

An employer that denied life insurance benefits to a domestic partner who was not a spouse did not discriminate under ERISA. Further, limiting the eligible beneficiaries under the plan to legal spouses or dependent children and defining the term spouse to require a marriage valid under state law were not unreasonable, as found in *Rovira et al. v. AT&T*, USDC, N.Y., 817 FSupp 1062, 1993. Although this district court decision applied to life insurance rather than health benefits, employers looked at it as a test case that might have required them to recognize same-sex partners as spouses despite the state law definition of the term spouse. Note, however, that an employer that denied health insurance benefits to a domestic partner who was not a spouse violated Alaska's Human Rights Act (*University of Alaska v. Tumeo*, Alaska SCt, Dkt. No. S-6898, March 14, 1997.). Also, an employer that did not include unmarried same-sex partners as family members eligible for health coverage violated Oregon's constitution. The policy was discriminatory since same-sex couples could not marry under state law, and so never would be eligible for benefits (*Tanner v. Oregon Health Sciences University*, Ore. Ct. App., Dkt. No. 9201-00369, December 9, 1998).

#### Proof of relationship

Employers often require proof of the relationship, such as a written affirmation of the partnership or documents that confirm that the partners reside at the same address (postmarked letters, driver's license, tax returns, or bank statements). However, employers should be careful that the proof is germane and does not invade the privacy of the persons (*Domestic Partners and Employee Benefits*, 1991 and 1994, Hewitt Associates, supra.).

#### Effect on plan costs

Current experience indicates that the costs of adding domestic partner benefits have been lower than expected or did not affect the overall employer cost of health coverage because:

enrollment has been lower than expected (less than 3% of employees elect the coverage)

adverse selection has not been a problem

increased risk of AIDS claims has not materialized.

An employer's cost of providing employee benefits is recognized by the IRS as a normal business expense and is deductible. For the employee, however, the costs are included in income unless the domestic partner is a legal spouse or dependant.

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LANGUAGE: ENGLISH

JOURNAL-CODE: 1529

LOAD-DATE: September 16, 1999

optional  
health insurance  
coverage for  
domestic partners

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Los Angeles Times

October 3, 1999, Sunday, Home Edition

SECTION: Part A; Page 24; Metro Desk

LENGTH: 1018 words

HEADLINE: CALIFORNIA AND THE WEST;  
DAVIS SIGNS 3 BILLS SUPPORTING DOMESTIC PARTNERS, GAY RIGHTS;  
LEGISLATION: CONTROVERSIAL PACKAGE GIVES PROTECTION TO STUDENTS AND EXTENDS  
HEALTH BENEFITS TO LIVE-IN COUPLES.

BYLINE: CARL INGRAM, TIMES STAFF WRITER

DATELINE: SACRAMENTO

BODY:

Gov. Gray Davis on Saturday signed a controversial package of gay rights bills, including one that officially recognizes same sex domestic partnerships and extends health insurance benefits to the unmarried partners of government employees.

A second bill is aimed at enhancing protection of gay high school and college students from harassment by classmates. The third will lead to more aggressive prosecution of sexual discrimination cases in employment and housing.

In signing the bills, which narrowly cleared the Legislature last month, the governor cited the murder last year of a Wyoming college student, Matthew Shepard, 21, who authorities allege was savagely tortured and killed by hate-filled bigots because he was gay.

The new laws, Davis said, will become weapons to help "beat back the forces of hatred and discrimination that strike at the very heart of what it means to be a Californian."

Davis, a moderate Democrat, had indicated several weeks ago that he would sign the politically sensitive domestic partners bill, but had not signaled in advance whether he would sign the others.

He timed the announcement of his action to coincide with a fund-raising banquet in Beverly Hills to honor President Clinton, an event sponsored by Access Now for Gay and Lesbian Equality.

In addressing about 1,000 supporters at the event, Clinton said, "I wish I could have done better" on gay and lesbian rights issues. "But we've done pretty

well. "

Davis, who campaigned last year against what he called divisive "wedge issues," said in a prepared speech earlier in the day that he wants a "new California based on hope instead of fear, tolerance instead of ignorance and issues that unite us instead of issues that divide us."

The bills were sponsored by Democrats, Assembly Speaker Antonio Villaraigosa, a possible contender for mayor of Los Angeles, and Assemblywomen Sheila Kuehl of Santa Monica and Carole Migden of San Francisco, the Legislature's first two openly lesbian members.

"We're finally on the map," declared Migden, asserting that her domestic partners bill "affirms the legitimacy and sincerity of lesbian and gay families."

The bill (AB 26) will create a California registry of domestic partners in the secretary of state's office and offer such couples limited benefits usually accorded married couples, including the right to hospital visits.

Although its same gender provisions drew the heaviest fire from critics, the bill would apply to heterosexual partners as well, including seniors who live together but choose not to wed because marriage would reduce their Social Security benefits.

For recognition as domestic partners, the couple must be "committed" to mutual caring, have reached 18, share a common residence and be responsible for the other partner's living expenses. Neither partner can be married or in another domestic partnership.

The bill also gives state and local government employers the option of extending health insurance coverage to domestic partners. ~~\_\_\_\_\_~~

With Davis' support, the University of California regents two years ago adopted such a program for its employees over the opposition of then-Gov. Pete Wilson.

Many private employers already offer health benefits to domestic partners as do at least 27 local government entities in California, a Migden spokesman said. It is not known how many of the state government's 250,000 workers would be affected by the new law.

All three bills faced heavy opposition in the Legislature, particularly from conservative Republicans and the religious right. One opponent, the Committee on Moral Concerns, denounced domestic partners legislation as "lending an air of legitimacy to homosexuality. This is the real motive of these bills."

The bill to protect gay schoolchildren or students "perceived" to be gay from harassment and discrimination was carried by Kuehl, who has pursued the issue since she was first elected in 1994.

The bill inserts the prohibition against discrimination based on sexual orientation into the state education code. It joins existing protections against discrimination related to gender, ethnicity, race, national origin, religion and

physical or mental disabilities.

Connecticut, Massachusetts and Wisconsin have similar protections for students.

Davis also disclosed that Judy Shepard, mother of the murdered University of Wyoming student, had appealed to him to sign the Kuehl bill, saying she believed that if Wyoming had such a law, the killers of her son would have "learned a fundamental respect of all people."

The Villaraigosa bill (AB 1001) adds discrimination based on sexual orientation to the list of prohibited offenses in housing and employment laws. It also shifts enforcement of employment discrimination to the state Department of Fair Employment and Housing, which has more expertise in the field.

The Committee on Moral Concerns charged that the bill granted "more than equal protection" to gays, lesbians and bisexuals. The committee said those individuals are "not suffering from unemployment and poverty" to the extent of other minorities.

Davis established himself as a defender of domestic partner rights in 1996 when, as lieutenant governor, he cast a rare, tie-breaking vote in the state Senate.

At the time, the chamber was deadlocked 20-20 on a bill that would have prohibited the state from recognizing gay marriages performed in other states. Opponents of the bill wanted to attach a hostile amendment to it that would have created a domestic partners registry in California.

But Republican backers of the bill said that if such an amendment passed, they would kill the entire bill rather than proceed with a domestic partners rider. Davis voted for the amendment and the bill's proponents immediately abandoned it.

The explosive issue of same sex marriages will return to California in March when voters will decide whether to approve an initiative that would prohibit California from recognizing same gender marriages.

\*

Times staff writers Amy Pyle and Ed Chen contributed to this story.

LANGUAGE: English

LOAD-DATE: October 3, 1999

District of Columbia — Domestic Partner Benefits  
including optional self-financed  
health insurance in Employees'  
Group Plan

Page 3

DC  
Study of  
Domestic  
Partner  
Benefits

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\*\*\* (PERMANENT LAWS AS OF APRIL 27, 1999) \*\*\*  
\*\*\* (EMERGENCY LEGISLATION AS OF MARCH 31, 1999) \*\*\*  
\*\*\* (REORGANIZATION PLANS AS OF DECEMBER 31, 1998) \*\*\*

TITLE 2. DISTRICT BOARDS AND COMMISSIONS  
CHAPTER 36. DOMESTIC PARTNERSHIP BENEFITS

D.C. Code § 2-3604 (1999)

§ 2-3604. Duties

(a) Within a 1a-month period following the appointment of all its members, the Commission shall conduct a study of domestic partnership benefits for District of Columbia government employees and submit a final report of its findings to the Mayor.

(b) The report shall:

(1) Define the terms "domestic partner", "domestic partnership", and "domestic partnership benefits", and "employee", as well as provide any other relevant definitions;

(2) Identify and study domestic partnership legislation that has been proposed or enacted in other jurisdictions;

(3) Identify and study domestic partnership benefits that have been proposed or agreed to in union contracts or compensation agreements in other jurisdictions;

(4) Inform the Mayor on the advisability of enacting domestic partnership benefits legislation for the District;

(5) Advise the Mayor on the impact of domestic partnership benefits legislation on existing laws, including Chapter 25 of Title 1;

(6) Estimate the fiscal impact of domestic partnership benefits legislation on the District and provide a breakdown of that estimate; and

(7) Advise the Mayor on any other aspect of domestic partnership benefits the Commission deems appropriate.

(c) Each agency of the District government shall cooperate with the Commission in the conduct of, the study and report required by subsection (a) of this section. Each agency shall provide any data, reports, or other information, in a timely manner, that the Commission may request in the course of the study. All information shall be kept confidential until the final report is issued.

(d) The Mayor shall provide administrative support, space, and other

resources needed by the Commission.

§

(e) Sums necessary to carry out the purposes of this chapter shall be provided out of existing revenues available to the District.

HISTORY: Sept. 29, 1988, D.C. Law 7-156, § 5, 35 DCR 5720.

NOTES:

SECTION REFERENCES. --This section is referred to in § 2-3605.

LEGISLATIVE HISTORY OF LAW 7-156. --See note to § 2-3601.



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TITLE 36. LABOR  
CHAPTER 14. HEALTH CARE BENEFITS EXPANSION

D.C. Code § 36-1401 (1999)

§ 36-1401. Definitions

For the purposes of this chapter, the term:

(1) "Committed relationship" means a familial relationship between 2 individuals characterized by mutual caring and the sharing of a mutual residence.

(2) "District government employee" means any employee eligible for the District of Columbia Employees Health Benefits Program.

(3) "Domestic partner" means a person with whom an individual maintains a committed relationship as defined in paragraph (1) of this section and who has registered under § 36-1402(a). Each partner shall:

(A) Be at least 18 years old and competent to contract;

(B) Be the sole domestic partner of the other person; and

(C) Not be married.

(4) "Domestic partnership" means the relationship between 2 persons who become domestic partners by registering in accordance with § 36-1402.

(5) "Employee" means any individual employed by an employer.

(6) "Employer" means any individual, firm, partnership, mutual company, joint stock company, association, corporation, unincorporated organization, incorporated society, labor union, receiver, trustee, agent or representative of any of the foregoing, and the District of Columbia government which, for compensation, employs an individual.

(7) "Family member" means:

(A) A domestic partner; or

(B) A dependent child of a domestic partner, which shall include, for the purposes of this section, an unmarried person under 22 years of age, an unmarried person under 25 years of age who is a full-time student, or an

## D.C. Code § 36-1401

unmarried person regardless of age who is incapable of self-support because of a mental or physical disability that existed before age 22. A dependent child of a domestic partner shall include a natural child, adopted child, stepchild, §foster child, or child in the legal custody of a domestic partner.

HISTORY: June 11, 1992, D.C. Law 9-114, § 2, 39 DCR 2861.

## NOTES:

SECTION REFERENCES. --This section is referred to in §§ 36-1404, 36-1405, and 36-1406.

LEGISLATIVE HISTORY OF LAW 9-114. --Law 9-114, the "Health Care Benefits Expansion Act of 1992," was introduced in Council and assigned Bill No. 9-162, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on March 3, 1992, and April 7, 1992, respectively. Signed by the Mayor on April 15, 1992, it was assigned Act No. 9-188 and transmitted to both Houses of Congress for its review. D.C. Law 9-114 became effective on June 11, 1992.

MAYOR AUTHORIZED TO ISSUE RULES. --Section 10 of D.C. Law 9-114 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of the act.

DELEGATION OF AUTHORITY UNDER D.C. ACT 9-114, THE HEALTH CARE BENEFITS EXPANSION ACT OF 1992. --See Mayor's Order 92-102, September 14, 1992.

FEASIBILITY STUDY FOR FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM. --See § 8 of the Health Care Benefits Expansion Act of 1992 (D.C. Law 9-114).

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TITLE 36. LABOR  
CHAPTER 14. HEALTH CARE BENEFITS EXPANSION

D.C. Code § 36-1402 (1999)

§ 36-1402. Domestic partnership registration and termination procedures

(a) To establish the existence of a domestic partnership and to qualify for benefits under §§ 36-1404, 36-1405, and 36-1406, persons shall register as domestic partners by executing a declaration of domestic partnership to be filed with the Mayor. For the purposes of this section, the declaration shall be signed by the domestic partners and shall affirm under penalty of perjury that each domestic partner:

- (1) Is at least 18 years old and competent to contract;
- (2) Is the sole domestic partner of the other person; and
- (3) Is not married.

(b) Before accepting a declaration of domestic partnership, the Mayor may examine any applicant under oath to ascertain the names and ages of the persons desiring to register as domestic partners and any other information as required by subsection (a) of this section.

(c) All information contained in a declaration of domestic partnership, except the address of the partners, shall be open to inspection as a public record.

(d) A domestic partner may terminate the domestic partnership by filing a termination statement with the Mayor. The person filing the termination statement shall declare that:

- (1) The domestic partnership is to be terminated; and
- (2) A copy of the termination statement has been served on the other domestic partner if the termination statement is not signed by both domestic partners.

(e) A termination statement filed pursuant to subsection (d) of this section shall take effect 6 months after the statement is filed. During this period, benefits shall continue to accrue.

(f) A District government employee who is separated from service, or an

employee's dependent child who ceases to be a dependent, may be eligible for extended health benefits coverage in accordance with § 1-622.14.

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(g) In accordance with the rules issued pursuant to § 36-1407, the Mayor may charge, a fee for filing a declaration of domestic partnership, a domestic partnership termination statement, and for filing any amendments to the declaration or termination statement.

(h) Private sector employees may register as domestic partners by executing a declaration of domestic partnership to be filed with the Mayor in accordance with subsections (a) through (g) of this section.

HISTORY: June 11, 1992, D.C. Law 9-114, § 3, 39 DCR 2861; Mar. 24, 1998, D.C. Law 12-81, § 50, 45 DCR 745.

NOTES:

SECTION REFERENCES. --This section is referred to in § 36-1401.

EFFECT OF AMENDMENTS. --D.C. Law 12-81 validated a previously made technical correction in the introductory paragraph of (a).

LEGISLATIVE HISTORY OF LAW 9-114. --See note to § 36-1401.

LEGISLATIVE HISTORY OF LAW 12-81. --Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

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TITLE 36. LABOR  
CHAPTER 14. HEALTH CARE BENEFITS EXPANSION

D.C. Code § 36-1403 (1999)

§ 36-1403. Enforcement by civil action

Any person or employer may bring a civil action in any court of competent jurisdiction against the appropriate domestic partner(s) to recover damages as a result of:

(1) A false statement in a declaration of domestic partnership or a false assertion of family membership; or

(2) A failure to notify the Mayor or the employer of a change in the status of the domestic partnership or family membership.

HISTORY: June 11, 1992, D.C. Law 9-114, § 4, 39 DCR 2861.

NOTES:

SECTION REFERENCES. --This section is referred to in § 36-1402.

LEGISLATIVE HISTORY OF LAW 9-114. --See note to § 36-1401.

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TITLE 36. LABOR  
CHAPTER 14. HEALTH CARE BENEFITS EXPANSION

D.C. Code § 36-1405 (1999)

§ 36-1405. District government employees -- Domestic partnership and family member benefits

(a) A District government employee shall be granted sick leave when needed to care for a family member as defined in § 36-1401(7), subject to the same guidelines and restrictions in § 36-1302.

(b) A District government employee shall be granted sick leave to care for a minor child of either domestic partner or to care for the employee's domestic partner who is on maternity or paternity leave, subject to the same guidelines and restrictions in § 36-1302.

(c) A District government employee shall be granted funeral leave or annual leave when needed to make arrangements for or attend a funeral or memorial service for a family member as defined in § 36-1401(7), subject to the same guidelines and restrictions in § 1-613.3(n).

(d) A District government employee who is adopting or whose domestic partner is adopting a child shall be granted annual leave or leave without pay to make necessary family arrangements, subject to the same guidelines and restrictions in § 36-1302.

HISTORY: June 11, 1992, D.C. Law 9-114, § 6, 39 DCR 2861.

NOTES:

SECTION REFERENCES. --This section is referred to in § 36-1402.

LEGISLATIVE HISTORY OF LAW 9-114. --See note to § 36-1401.

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TITLE 36. LABOR  
CHAPTER 14. HEALTH CARE BENEFITS EXPANSION

D.C. Code § 36-1406 (1999)

§ 36-1406. Optional self-financed coverage: District of Columbia Employees Health Benefits Program

District government employees enrolled in the District of Columbia Employees Health Benefits Program shall be allowed to purchase family health insurance coverage that would cover the employee's family members as defined in § 36-1401(7) in accordance with §§ 1-622.5, 1-622.6, and 1-622.7(a), (c), and (d). A domestic partner shall not simultaneously be enrolled for individual and family member coverage. The employee shall assume the total additional cost of the family health insurance coverage for the domestic partner or family members as defined in § 36-1401(7).

HISTORY: June 11, 1992, D.C. Law 9-114, § 7, 39 DCR 2861.

NOTES:

SECTION REFERENCES. --This section is referred to in § 36-1402.

LEGISLATIVE HISTORY OF LAW 9-114. --See note to § 36-1401.

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TITLE 47. TAXATION AND FISCAL AFFAIRS  
 CHAPTER 18. INCOME AND FRANCHISE TAXES  
 SUBCHAPTER III. NET INCOME, GROSS INCOME AND EXCLUSIONS THEREFROM,  
 AND  
 DEDUCTIONS

D.C. Code § 47-1803.3 (1999)

§ 47-1803.3. Same -- Deductions

(a) Deductions allowed. -- The following deductions shall be allowed from gross income in computing net income of corporations, financial institutions, unincorporated businesses and partnerships:

(1) Expenses. -- All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business (except as otherwise provided herein); traveling expenses while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. Any business expenses allowed under this paragraph shall be subject to the same limitations as provided for in the Internal Revenue Code of 1986.

(2) Interest. -- All interest paid or accrued within the taxable year on indebtedness which is deductible under the provisions of § 163 of the Internal Revenue Code of 1986.

(3) Taxes. -- All taxes paid or accrued during the taxable year which are deductible under the provisions of § 164 of the Internal Revenue Code of 1986; provided, however, that no deduction shall be allowed for:

(A) Income taxes; or

(B) Franchise taxes imposed by this chapter.

(4) Losses.

(A) Losses sustained during the taxable year and not compensated for by insurance or otherwise:

(i) If incurred in a trade or business; or

(ii) If incurred in any transaction entered into for the production



or collection of income subject to tax under this chapter, or for the management, conservation, or maintenance of property held for the production of income subject to tax under this chapter, though not connected with any trade or business; or

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(iii) Of property not connected with a trade or business, if the losses arise from fire, storm, shipwreck, or other casualty, or from theft.

(B) [Deleted].

(5) Bad debts. -- Debts ascertained to be worthless and determined as deductible under § 166 and related sections of the Internal Revenue Code of 1986.

(6) Insurance premiums. -- All fire, tornado, and casualty insurance premiums paid during the taxable year in connection with property held for investment or used in a trade or business, the income from which is taxable under this chapter.

(7) Depreciation. -- A reasonable allowance for exhaustion, wear, and tear of property used in the trade or business, including a reasonable allowance for obsolescence; and including in the case of natural resources allowances for depletion as permitted by reasonable rules and regulations which the Mayor is hereby authorized to promulgate. The basis upon which such allowances are to be computed is the basis provided for in § 47-1811.4.

(8) Charitable contributions. -- Contributions or gifts, actually paid within the taxable year to or for the use of the District of Columbia, but only if the contribution or gift is made exclusively for public purposes, or any religious, charitable, scientific, literary, military, or educational institution, and no part of the net income of which inures to the benefit of any private shareholder or individual; provided, however, that such deductions shall be allowed only in an amount which in the aggregate of all such deductions does not exceed 15% of the adjusted gross income. For purposes of this section, the term "actually paid", when used with reference to the District of Columbia, includes compensation waived under § 1-612.15.

(9) Contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan. -- In the return of an employer, contributions made by such employer to an employees' trust or annuity plan and compensation under a deferred-payment plan to the extent that deductions for the same are allowed the taxpayer under the provisions of § 404 of the Internal Revenue Code of 1986 (§ 404 of Title 26, United States Code).

(10) Allocation of deductions. -- In the case of corporations, financial institutions and unincorporated businesses, the deductions provided for in this section shall be allowed only for and to the extent that they are connected with income arising from sources within the District within the meaning of §§ 47-1810.1 to 47-1810.3; and the proper apportionment and allocation of the deductions to be allowed shall be determined by the Mayor under formula or formulas provided for in § 47-1810.2.

(11) Reasonable allowance for salaries. -- A reasonable allowance for salaries or other compensation for personal services actually rendered, except:

## D.C. Code § 47-1803.3

(A) No allowance shall be made for salaries or wages in an amount equal to the amount of the credit allowed under §§ 47-1808.4 and 47-1808.7; and

(B) In the case of an unincorporated business subject to the tax imposed by subchapter VIII of this chapter, the aggregate deduction for § services rendered by individual owners or members actively engaged in the conduct of the unincorporated business shall not exceed 30% of the net income of the business, computed without the benefit of this deduction.

(12) Regulated investment companies. -- In the case of a regulated investment company as defined in § 851 of the Internal Revenue Code of 1986, which meets the requirements of § 852(a) of the Internal Revenue Code of 1986:

(A) The dividends paid by the regulated investment company which qualify for the dividends-paid deduction under § 852(b)(2)(D) and 852(b)(3)(A) (ii) of the Internal Revenue Code of 1986, including dividends considered as having been paid during the taxable year by reason of § 855 of the Internal Revenue Code of 1986; and

(B) Such amount as the regulated investment company shall designate for purposes of § 852(b) (3) (D) (ii) of the Internal Revenue Code of 1986 as undistributed long-term capital gains to be included in computing the long-term capital gains of the shareholder. Such amounts shall be included as gains from the sale or exchange of capital assets, as defined in this chapter, in computing such shareholder's taxable income as defined in § 47-1806.1.

(13) Real estate investment trusts. In the case of a real estate investment trust as defined in § 856 of the Internal Revenue Code of 1986, which meets the requirements of § 857(a) of the Internal Revenue Code of 1986, the dividends paid by the real estate investment trust which qualify for the dividends-paid deduction under § 857(b)(2)(C) and § 857(b)(3)(A) (ii) of the Internal Revenue Code of 1986, including dividends considered as having been paid during the taxable year by reason of § 858 of the Internal Revenue Code of 1986.

(14) Net operating losses. -- In computing the net income of a corporation, an unincorporated business, or a financial institution, there shall be allowed a deduction for net operating losses, in the same manner as allowed under § 172 of the Internal Revenue Code of 1986 and as reported on any federal tax return for the same taxable period, except that no net operating losses may be carried back to any year ending before January 1, 1988.

(15) Health insurance premiums. -- All health insurance premium expenditures for domestic partners and family members of employees if offered to all of its full-time employees who are District of Columbia residents.

(16) Subpart F income. -- In computing the taxable income of a corporation, an unincorporated business, or a financial institution, there shall be allowed a deduction for Subpart F income as defined in § 47-1801.4(33) for taxable years beginning after December 31, 1994.

(17) Notwithstanding paragraph (10) of this subsection and § 47-1810.1(a) (2), in computing the net income of a corporation, there shall be

## D.C. Code § 47-1803.3

allowed a deduction for all dividends received on or after March 1, 1997, from a wholly-owned subsidiary.

(b) Deductions allowed -- Generally. -- In the case of an individual, estate, or trust, deductions allowed under this section shall be the same as the deductions allowed by the Internal Revenue Code of 1986 on federal individual or fiduciary income tax returns; provided, however, that no deduction may be allowed for the following:

(1) Income taxes;

(2) Franchise taxes imposed by this chapter;

(3) Carryovers of charitable contributions made prior to January 1, 1982, and included as deductions for federal income tax purposes;

(4) [Repealed].

(5) Any deduction passing to a stockholder in a small business corporation as defined in § 1371 of the Internal Revenue Code of 1954, making an election under § 1372(a) of the Internal Revenue Code of 1954, or an S Corporation as defined in § 1361(a) and (b) of the Internal Revenue Code of 1986, making an election under § 1362(a) of the Internal Revenue Code of 1986, which is otherwise deductible under the provisions of subsection (a) of this section and which was allowable in determining the taxable income of the small business corporation or S Corporation subject to tax under the provisions of subchapter VII of this chapter.

(c) Standard deduction. -- Every individual who claims the standard deduction on his or her federal income tax return shall claim the applicable standard deduction specified in § 47-1801.4(26). Every individual who itemizes deductions on his or her federal income tax return shall itemize the deductions permissible under this chapter. If a husband and wife file separate returns, the applicable standard deduction shall be allowed to neither if the net income of one of the spouses is determined by itemizing deductions.

(d) Deductions not allowed. -- In computing net income, no deductions shall be allowed in any case for:

(1) Personal, living, or family expenses;

(2) Any amount paid out for new buildings or for permanent improvements or betterments, made to increase the value of any property or estate;

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

(4) Premiums paid on any life insurance policy covering the life of any officer or employee or of any person financially interested in any trade or business carried on by the taxpayer when the taxpayer is directly or indirectly a beneficiary under such policy;

(5) If the net income of an unincorporated business for the taxable year is in excess of the exemption provided in § 47-1808.4, no deduction which is

## D.C. Code § 47-1803.3

allowed or allowable under subsection (a) of this section from the gross income of any unincorporated business subject to the tax imposed by §§ 47-1808.1 to 47-1808.6 shall be allowed as deduction in the return and computation of the net income of any person entitled to share in the net income of such unincorporated business; and

(6) (A) Expenses incurred to produce income which is either exempt or not subject to taxation under this act.

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(B) Notwithstanding subparagraph (A) of this paragraph, for the period beginning January 23, 1983, through September 30, 1984, expenses incurred to produce interest and dividend income on obligations or securities of the United States, or its agencies or instrumentalities, may be treated as expenses incurred to produce taxable income.

(e) Lower income rental housing depreciation deduction. An investor in a shared equity financing agreement may qualify for a depreciation deduction as provided in § 47-3507.

HISTORY: July 16, 1947, 61 Stat. 337, ch. 258, art. I, title III, § 3; May 27, 1949, 63 Stat. 130, ch. 146, title IV, §§ 404-409; Mar. 31, 1956, 70 Stat. 69, ch. 154, §§ 3, 4; Sept. 4, 1957, 71 Stat. 606, Pub. L. 85-281, § 4; Oct. 31, 1969, 83 Stat. 177, Pub. L. 91-106, title VI, § 601(b)(3), (4); Aug. 28, 1970, 84 Stat. 834, Pub. L. 91-391, § 1; Jan. 5, 1971, 84 Stat. 1933, Pub. L. 91-650, title II, §§ 204, 205(a); 1973 Ed., § 47-1557b; Oct. 21, 1975, D.C. Law 1-23, title VI, § 601(5), (6), 22 DCR 2107; Nov. 1, 1975, D.C. Law 1-31, § 2, 22 DCR 2547; Feb. 3, 1976, D.C. Law 1-44, §§ 2, 3, 23 DCR 4055; June 15, 1976, D.C. Law 1-70, title XI, § 1101, 23 DCR 562; Apr. 19, 1977, D.C. Law 1-124, title IV, § 401(b), 23 DCR 8749; Sept. 23, 1977, D.C. Law 2-19, § 2, 24 DCR 3338; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-92, § 501, 27 DCR 3390; Sept. 13, 1980, D.C. Law 3-95, § 103(b)-(d), 27 DCR 3509; June 11, 1981, D.C. Law 4-7, § 3, 28 DCR 1672; June 11, 1982, D.C. Law 4-118, § 104, 29 DCR 1770; July 24, 1982, D.C. Law 4-131, § 108(a), (b), 29 DCR 2418; Oct. 8, 1983, D.C. Law 5-31, § 10(f), 30 DCR 3879; Oct. 8, 1983, D.C. Law 5-32, § 3(c), 30 DCR 4013; July 24, 1986, D.C. Law 6-129, § 2(b), 33 DCR 3221; June 24, 1987, D.C. Law 7-9, § 2(f), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, §§ (2) (c)(5)-(17), 4, 34 DCR 5097; Apr. 30, 1988, D.C. Law 7-104, § 39(a)-(c), 35 DCR 147; July 8, 1988, D.C. Law 7-130, § 2(b), 35 DCR 4104; Sept. 21, 1988, D.C. Law 7-141, § 2(b), 35 DCR 5398; Sept. 21, 1988, D.C. Law 7-145, § 2(b), 35 DCR 5407; Oct. 20, 1988, D.C. Law 7-177, § 10(a), 35 DCR 6158; July 26, 1989, D.C. Law 8-17, § 2(b), 36 DCR 4160; June 11, 1992, D.C. Law 9-114, § 11, 39 DCR 2861; June 14, 1994, D.C. Law 10-128, § 103(b), 41 DCR 2096; Apr. 12, 1997, D.C. Law 11-257, § 5, 44 DCR 1247; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.

## NOTES:

CROSS REFERENCES. --As to definition of unincorporated business for tax purposes, see § 47-1808.1.

SECTION REFERENCES. --This section is referred to in §§ 1-1472, 47-1809.8, 47-1811.4, and 47-1812.11.

EFFECT OF AMENDMENTS. --D.C. Law 11-257 added (a) (17).

LEGISLATIVE HISTORY OF LAW 1-23. --See note to § 47-1801.4.

DATE: OCTOBER 7, 1999

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