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HOUSE OF REPRESENTATIVES
NINETEENTH LEGISLATURE, 1997
STATE OF HAWAII

H.B. NO. 1396

A BILL FOR AN ACT

RELATING TO DOMESTIC PARTNERSHIPS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Domestic partners live together in the context
2 of a committed family relationship. However, they are often
3 denied public and private-sector benefits, because they cannot
4 provide state-certified proof of their relationship.

5 The State finds that domestic partners comprise a percentage
6 of households within this jurisdiction that is not insignificant.

7 Domestic partners are often subject to marital status
8 discrimination in employment, housing, and public accommodations.

9 The enactment of this registration section is a means of
10 attempting to eliminate this discrimination,

11 The purpose of this Act is to recognize committed
12 relationships of people and the right to identify the partners
13 with whom they share their lives as members of each other's
14 immediate family.

15 SECTION 2. The Hawaii Revised Statutes is amended by adding
16 a new chapter to be appropriately designated and to read as
17 follows:

1 **"CHAPTER**

2 DOMESTIC PARTNERSHIPS

3 § -1 Definitions. For the purposes of this chapter:

4 “Basic living expenses” means basic food and shelter. It
5 includes any other cost, such as medical care, if some or all of
6 the cost is paid as a benefit to one or both partners because
7 they have registered as domestic partners under this section.

8 “Declaration of domestic partnership” means a statement in a
9 form issued by the director of health that declares the intent of
10 hvo people to enter into a valid domestic partnership contract.

11 By signing it, two people swear under penalty of **perjury** that
12 they meet the requirements for a valid domestic partnership
13 contract.

14 “Director” means the director of health.

15 “Domestic partners” means two adults who are parties to a
16 valid domestic partnership contract and continue to meet the
17 requisites for a valid domestic partnership contract set out in
18 in section -2.

19 “Joint responsibility” means that each partner agrees to
20 provide for the other’s basic living expenses while the domestic
21 partnership is in effect if the other is unable to provide for
22 himself or herself. It does not **mean** that the partners need

1 contribute equally or jointly to basic living expenses. Anyone
2 to whom these expenses are owed can enforce the responsibility
3 established by this chapter.

4 “Live together” means that **two** people share the same place
5 to live. It is not necessary that the legal right to possess the
6 place be in both of their names. Two people may live together
7 even if one or both have additional places to live. Domestic
8 partners do not cease to live together if one leaves the shared
9 place but intends to return.

10 § -2 Requisites of a valid domestic partnership contract.

11 To make a **valid** domestic partnership contract, it shall be
12 necessary that the parties:

- 13 (1) Live **together**;
- 14 (2) Consider themselves to be members of each other’s
15 immediate family;
- 16 (3) Agree to be jointly responsible for each other’s basic
17 living expenses;
- 18 (4) Neither be married nor a member of another domestic
19 partnership;
- 20 (5) Not be related by blood in a way that would prevent
21 them from being married to each other under chapter
22 572;
- 23 (6) Each be at least eighteen years old;

1 (7) Each be competent to enter into a contract; and

2 (8) Each sign a declaration of domestic partnership as

3 provided for in section -3.

4 § -3 Establishing a domestic partnership. Two persons,

5 who meet the criteria set out in section -2, may establish a

6 domestic partnership by presenting a signed notarized declaration

7 of domestic partnership to the director, who shall file it and

8 give the partners a **certificate** of domestic partnership showing

9 that the declaration was filed in the names of the parties who

10 shall be known as “domestic partners”.

11 § -4 Bights and obligations. Upon the issuance of a

12 certificate of domestic partnership by the director, the parties

13 named in the certificate shall have the same rights and

14 obligations under the law that are conferred on spouses in a

15 marriage relationship under chapter 572. A “domestic partner”

16 shall be included in any definition or use of the terms “spouse”,

17 “family”, “immediate family”, or “dependent” as those terms are

18 used throughout the law.

19 § -5 Dissolution of domestic partnerships. The family

20 court shall have jurisdiction over the dissolution of domestic

21 partnerships. The dissolution of domestic partnerships shall

22 follow the same procedures and be subject to the same substantive

1 rights and obligations that are involved in the dissolution of
2 marriage under chapter 572.

3 § -6 Records and fees. The director shall keep a record
4 of all declarations. The director **shall** set the amount of the
5 filing **fee** for declarations, but in no case shall the fee be
6 higher than the fee for a marriage license. The fees charged
7 shall cover the State's costs of administering this section.

8 § -7 Preemption. This chapter shall supersede any state
9 law or political subdivision ordinance to the contrary.

10 § -8 Private solemnization not required. Nothing in this
11 chapter shall be construed to require any religious organization
12 to solemnize a domestic partnership that does not recognize a
13 domestic partner relationship within their ideology; provided
14 that any rights and obligations of domestic partners are not
15 obstructed or violated. "

16 SECTION 2. Section 368-1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§368-1** Purpose and intent. The legislature finds and
19 declares that the practice of discrimination because of race,
20 color, religion, age, sex, sexual orientation, marital status,
21 including domestic partnership, national origin, ancestry, or
22 disability in employment, housing, public accommodations, or
23 access to services receiving state financial assistance is

1 against public policy. It is the purpose of this chapter to
2 provide a mechanism which provides for a uniform procedure for
3 the enforcement of the State's **discrimination** laws. It is the
4 legislature's intent to preserve all **existing** rights and remedies
5 under such laws."

6 SECTION 3. If any provision of this Act, or the application
7 thereof to any person or **circumstance** is held **invalid**, the
8 invalidity does not **affect** other provisions or **applications** of
9 the Act which can be given effect without the **invalid** provision
10 or application, and to this end the provisions of this Act are
11 severable.

12 SECTION 4. This Act does not **affect** rights and duties **that**
13 matured, penalties that were incurred, and proceedings that **were**
14 **begun**, before its effective date.

15 SECTION 5. New statutory material is underscored.

16 SECTION 6. **This Act shall take effect upon its approval.**

17

18 INTRODUCED BY: _____

Marriage License Information

**JOSEPH T. PARIS1
DANE COUNTY CLERK**

**City-County Building, Room 112
210 Martin Luther King, Jr. Boulevard
Madison, Wisconsin 53709**



WHERE TO APPLY

Marriage licenses are issued in the Dane County Clerk's Office, Room 112, City-County Building, 210 Martin Luther King, Jr., Blvd., Monday through Friday from 8:00 a.m. to 4:00 p.m.

Wisconsin residents apply in the county where one or both parties have resided for at least 30 days prior to the date of application for marriage license. The license may then be used to marry in any county in the state. **Out-of-state** residents must apply in the county where the ceremony will take place.

WHEN TO APPLY-WAITING PERIOD

Application is made at least six **full** calendar days before the license can be issued. You may then use your license within the next 30 days. A waiver of the waiting period can be granted, in special cases, for an additional fee of \$10.00.

AGE RESTRICTIONS

The legal age for marriage in Wisconsin is 18. If a person is 16 or 17 years of age, a license may be issued with the written consent of both parents or legal guardian. Consent forms are available from the County Clerk.

DIVORCED PERSONS

Divorced persons may not remarry until 6 months after the granting of the judgment of divorce, regardless of where the action took place.

LICENSE FEE

\$60 CASH. Checks are not accepted. Payment is non-refundable.

REQUIREMENTS

Both persons must apply and sign before the County Clerk or Deputy Clerk. Each should provide:

1. Social Security number.
2. Proof of residence (where **you have physically lived** for the last 30 days) such as driver's license, lease, or letter with postmark over 30 days old.
3. CERTIFIED copy* (see back of brochure) of birth certificate if under the age of 30.
4. Death certificate, judgment of divorce or legal annulment from most recent marriage.
5. Names, with correct spelling, for both parents, including mother's maiden name.
6. Date and place of marriage ceremony and name of officiant.
7. Name of city, village or township and county where you presently reside.

- Blood tests are **not** required -

If you are 30 years of age or older and have any type of birth certificate, please bring it with you at the time of application as it provides needed information and speeds application time.

REQUIREMENTS (Cont.)

***A** certified copy **will** bear the official embossed or colored-ink seal, date of issuance, and a signature of the **state registrar** or Register of Deeds. The seal of a **notary public** does not **suffice** for a certified copy of a vital record. Photocopies of **the official** seal of **office and Register's** signature are not acceptable. The souvenir birth document given by **the** hospital is not **acceptable**. **Our office** can provide you with phone numbers and addresses for obtaining birth certificates.

ALTERNATIVE FORMATS

If you are in need of an accommodation due to a **disability**, or if you need this information in an **alternative** format, please **request** this by calling **608/266-4124**.

Este folleto esta disponible en **Español**.

**OFFICE HOURS FOR
MARRIAGE LICENSE APPLICATIONS
8:00 a.m. to 4:00 p.m., Monday thru Friday
(open during noon hour)**

**FOR FURTHER INFORMATION
PLEASE CALL: 608/266-4124
TDD ONLY: 60W266-4121**

A BILL FOR AN ACT
RELATING TO DOMESTIC PARTNERSHIPS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the law on marriage
2 is restricted to those personal relationships between couples of
3 the opposite gender. While the legislature believes that a
4 marriage can exist only between a man and a woman that such a
5 marriage is the most beneficial to the social and family
6 structure, and that the institution of marriage is traditionally
7 thought of as a special relationship which exists between members
8 of the opposite gender, the legislature believes that other forms
9 of personal relationships exist and can be recognized in a way
10 which does not infringe on those long standing cultural and
11 traditional concepts of marriage. The legislature finds and
12 declares that:

- 13 (1) Domestic partners **live** together in the context of a
14 committed family relationship. However, they are **often**
15 denied public and private benefits, because they cannot
16 provide state **certified** proof of their relationship;
17 (2) Domestic partners comprise a percentage of households
18 within this jurisdiction that is not **insignificant**.
19 Domestic partners are often subject to marital status

1 discrimination in employment, housing, and public
2 accommodations. The enactment of this registration law
3 is to eliminate this discrimination; and

4 (3) It is in the public interest to act “with all
5 deliberate speed” in response to the constitutional
6 concerns expressed by the state supreme court in *Baehr*
7 *v. Lewin*, 74 Haw. 530 (1993).

8 SECTION 2. The purpose of this Act is to provide for state
9 recognition of persons of the same gender who choose to enter
10 into domestic partnerships in order to share their lives as
11 members of each other’s immediate family and to establish a
12 statutory mechanism for the identification of the specific
13 benefits and obligations which are conferred in domestic
14 partnerships.

15 At the same time, the legislature recognizes that many
16 complex issues surround the statutory recognition of domestic
17 partners. One issue involves child custody and adoption. The
18 legislature finds that all things being equal, children are best
19 raised by their biological parents. Therefore, this Act has
20 limited the authorization of domestic partners in child custody
21 and adoption issues until such time that the State is able to
22 deliberate on the issues surrounding child rearing by domestic
23 partners.

1 The legislature is also mindful of its jurisdiction and the
2 issues surrounding the full faith and credit provision of the
3 United States Constitution. In order to avoid appearing to
4 regulate the internal affairs of another state, the legislature
5 believes that domestic partnership recognition should be limited
6 to state residents.

7 The purpose of this Act is therefore to recognize and
8 regulate the relationship that persons of the same gender may
9 have with one another, without infringing in any way on the
10 traditional concepts of marriage or with the rights, benefits,
11 and status of married people. Moreover, although this Act is
12 limited to members of the same gender, this Act is not intended
13 to violate the rights of opposite gender couples who desire to
14 enter into a domestic partnership, since opposite gender couples
15 retain the right of marriage itself under chapter 572, Hawaii
16 Revised Statutes.

17 SECTION 3. The Hawaii Revised Statutes is amended by adding
18 a new chapter to be appropriately designated and to read as
19 follows:

20 "CHAPTER
21 DOMESTIC PARTNERSHIPS

22 § -1 Title. This chapter shall be known as the Domestic
23 Partnership Act.

1 § -2 Definitions. For the purposes of this chapter:

2 “Basic living expenses” means basic food and shelter. It
3 includes any other cost, such as medical care, if some or all of
4 the cost is paid as a benefit to one or both partners because
5 they have registered as domestic partners under this section.

6 “Declaration of domestic partnership” means a statement in a
7 form issued by the director that declares the intent of two
8 people to enter into a valid domestic partnership contract. By
9 signing it, two people swear under penalty of perjury that they
10 meet the requirements for a valid domestic partnership contract.

11 “Department” means the department of health.

12 “Director” means the director of health.

13 “Domestic partners” means two adults who are parties to a
14 valid domestic partnership contract and meet the requisites for a
15 valid domestic partnership contract as defined in section -3.

16 “Domestic partnership” means a **voluntary**, written personal •
17 undertaking, filed with the state of registration, by adults to
18 cohabit as a family, subject to the provisions of law.

19 “Joint responsibility” means that each partner agrees to
20 provide for the other’s basic living expenses while the domestic
21 partnership is in effect if the partner is unable to provide for
22 himself or herself. It does not mean that the partners need
23 contribute equally or jointly to basic living expenses. Anyone

1 to whom these expenses are owed may enforce the responsibilities
2 established by this chapter.

3 § -3 Requisites of a valid domestic partnership contract.

4 In order to make a valid domestic partnership contract it shall
5 be necessary that the parties:

6 (1) Reside in the same household;

7 (2) Consider themselves to be members of each other's
8 immediate family;

9 (3) Agree to be jointly responsible for each other's basic
10 living expenses;

11 (4) Agree to assume the rights and obligations **specified** in
12 section -6;

13 (5) Neither be married nor a member of another domestic
14 partnership;

15 (6) Not be related by blood in a way that would prevent
16 them from being married to each other under chapter
17 572;

18 (7) Each be at least eighteen years old;

19 (8) Be of the same gender, one of whom has been a resident
20 of the State for at least twelve consecutive months
21 preceding the date of application for domestic
22 partnership;

23 (9) Each be competent to enter into a contract; and

1 (10) Each sign a declaration of domestic partnership as
2 provided for in section -5.

3 § -4 Domestic partnership certificates; agent to grant;

4 fee. (a) The department shall appoint, and at its pleasure
5 remove, one or more suitable persons as agents authorized to

6 issue domestic partnership certificates under this chapter in
7 each judicial circuit to persons meeting the requirements for

8 registration under section -5. The agents may issue

9 certificates from any state facility when deemed necessary by the
10 director. Any agent appointed under this subsection and

11 receiving an application for a domestic partnership certificate

12 shall collect from the applicant \$, of which the agent,

13 except those provided for in subsection (b), shall retain \$

14 for the agent's benefit and compensation and shall remit \$ to

15 the director of finance.

16 (b) The department may appoint as regular employees under

17 the civil service and classification laws the number of suitable

18 persons as agents authorized to grant domestic partnership

19 certificates for whom provision has been made in the general

20 appropriation act. In the case of the agents, the full amount

21 collected from applicants shall be remitted to the director of

22 finance as a general realization of the State.

23 (c) Every agent appointed under this section may administer

1 the oaths required by this chapter to be taken.

2 (d) The department or its authorized agent shall furnish to
3 each applicant for a domestic partnership certificate,
4 information related to venereal diseases, contraceptives, fetal
5 alcohol and drug syndromes, and acquired immune deficiency
6 syndrome (**AIDS**), including the availability of anonymous testing
7 for HIV infection at alternate test site; provided that the
8 information is available.

9 §-5 Application; certificate; limitations. To secure a
10 certificate to become domestic partners, the persons applying for
11 the certificate shall appear personally before an agent
12 authorized to register domestic partnerships and shall file with
13 the agent an application in writing. The application shall be
14 accompanied by a declaration of domestic partnership signed and
15 sworn to by each of the persons certifying that they meet the
16 criteria set out in section §-3 and setting forth for each
17 person:

- 18 (1) Full name;
- 19 (2) Date of birth;
- 20 (3) Length of residency in Hawaii;
- 21 (4) Full names of parents;
- 22 (5) That all prior marriages and domestic partnerships, if
- 23 any, have been dissolved by death or dissolution;

1 (6) If either party has had a prior marriage or domestic
2 partnership, the date of death of the last prior spouse
3 or domestic partner, or date and jurisdiction in which
4 the last decree of dissolution was entered; and
5 (7) Any other information consistent with the standard
6 marriage license as recommended by the Public **Health**
7 Service, National Center for Health Statistics, may be
8 requested for statistical or other purpose subject to
9 the approval of and modification by the department;
10 provided that the information **shall** be provided at the
11 option of the applicant and no applicant shall be
12 denied registration for failure to provide the
13 information.

14 The agent shall endorse on the application, over the agent's
15 signature, the date of the filing thereof and shall issue a
16 certificate which shall bear on its face the date of issuance.

17 Every certificate shall be of full force and effect.

18 It shall be the duty of every person, legally authorized to
19 grant certificates for domestic partnerships, to promptly report
20 the issuance of every domestic partnership **certificate** to the
21 agent of the department in the district in which the certificate
22 is issued, setting forth **all** facts required to be stated in such
23 manner and on such form as the department may prescribe.

1 § -6 Rights and obligations. Upon the issuance of a
2 certificate of domestic partnership, the parties named in the
3 certificate shall have the same rights and obligations under the
4 law that are conferred on spouses in a marriage relationship
5 under chapter 572. A “domestic partner” shall be included in any
6 definition or use of the terms “spouse”, “family”, “immediate
7 family”, or “dependent” as those terms are used throughout the
8 **laws** of the State of Hawaii and rules adopted pursuant thereto.

9 § -7 Limitations. The registered domestic partner of a
10 parent of a child shall not:

- 11 (1) Be entitled to the legal rights, duties, and
12 responsibilities of the natural father or mother,
13 unless those legal rights, duties, and responsibilities
14 have been terminated by a court or surrendered by the
15 natural father or mother in an adoption proceeding;
- 16 (2) Gain any parental rights to the child except through
17 adoption; or
- 18 (3) Be considered the natural parent for the **purpose** of
19 filling out the birth certificate of the child.

20 § -8 Dissolution of domestic partnerships. (a)
21 Exclusive original jurisdiction in matters of dissolution of
22 domestic partnerships, subject to appeal according to law, is
23 conferred upon the family court of the circuit in which the

1 applicant has been domiciled or has been physically present for a
2 continuous period of at least three months preceding the
3 application therefor. No termination of a domestic partnership
4 may be granted for any cause unless either party to the domestic
5 partnership has been domiciled or has been physically present in
6 the State for a continuous period of at least six months next
7 preceding the application **therefor**.

8 **(b)** The dissolution of domestic partnerships shall be
9 considered under all applicable laws governing the dissolution of
10 marriage under chapter 580, except that the family court, by
11 decree of nullity, may declare void the domestic partnership
12 certification for any of the following causes, existing at the
13 time of certification:

- 14 (1) The parties were not at least eighteen years of age;
15 (2) A partner has a living spouse or other domestic
16 **partner;**
17 (3) Consent of the domestic partnership of the party
18 applying for annulment was obtained by force, duress,
19 or fraud, and there has been no subsequent
20 cohabitation; or
21 (4) A party is mentally incapable to consent to the
22 domestic partnership agreement.
23 (c) Any final decree of dissolution of domestic partnership

1 issued by the court shall not be effective until at least six
2 months after the date of service of a copy of summons and
3 petition or the date of appearance which ever occurs first as
4 required by section 580-45.

5 § -9 Records and fees. The director shall keep a record
6 of all declarations. The director shall set the amount of the
7 filing fee for declarations, but in no case shall the fee be
8 higher than the fee for a marriage license, The fees charged
9 shall cover the State's costs of administering this section.

10 § -10 Preemption. This chapter shall supersede any state
11 law or political subdivision ordinance to the contrary.

12 § -11 Private solemnization not required. Nothing in
13 this chapter shall be construed to require any religious
14 organization to solemnize a domestic partnership that does not
15 recognize a domestic partner relationship within its ideology;
16 provided that any rights and obligations of domestic partners are
17 not obstructed or violated.

18 § -12 Rules of construction. In construing this chapter,
19 the court may seek guidance **from**, but is not bound by, the laws
20 and principles governing marriage and annulment, divorce, and
21 dissolution of marriage. "

22 SECTION 4. Section 368-1, Hawaii Revised Statutes, is
23 amended to read as follows:

1 **"§368-1 Purpose** and intent. The legislature finds and
2 declares that the practice of discrimination because of race,
3 color, religion, age, sex, sexual orientation, marital status,
4 including domestic partnership, national origin, ancestry, or
5 disability in employment, housing, public accommodations, or
6 access to services receiving state financial assistance is
7 against public policy. It is the purpose of this chapter to
8 provide a mechanism which provides for a uniform procedure for
9 the enforcement of the State's discrimination laws. It is the
10 legislature's intent to preserve all existing rights and remedies
11 under such laws."

12 SECTION 5. Section 580-45, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§580-45 Decree.** If after a **full** hearing, the court is of
15 the opinion that a divorce ought to be granted from the bonds of
16 matrimony, or that a dissolution of a domestic partnership ought
17 to be granted, a decree shall be signed, filed, and entered,
18 which shall take effect from and after such time as may be fixed
19 by the court in the decree. The court, in its discretion, may
20 waive a hearing on an uncontested divorce complaint or petition
21 to dissolve a domestic partnership and admit proof by **affidavit**.
22 In case of a decree dissolving the bonds of matrimony, such time
23 so fixed shall not be more than one month from and after the date

1 of the ~~decree[.]~~; provided that in the case of the dissolution of
2 domestic partnership the effective date of the decree of
3 dissolution shall be not less than six months from the date of
4 service of a copy of the summons and petition or the date of
5 appearance of the respondent, whichever occurs **first.**"

6 SECTION 6. If any provision of this Act, or the application
7 thereof to any person or circumstance is held invalid, the
8 invalidity does not **affect** other provisions or applications of
9 the Act which can be given effect without the invalid provision
10 or application, and to this end the provisions of this Act are
11 severable.

12 SECTION 7. This Act does not affect rights and duties that
13 matured, penalties that were **incurred**, and proceedings that were
14 begun, before its effective date.

15 SECTION 8. Statutory material to be repealed is bracketed.
16 New statutory material is underscored.

17 SECTION 9. This Act shall take effect upon its approval.

18

19 INTRODUCED BY: _____

MARK POCAN

WISCONSIN STATE REPRESENTATIVE



MAILING ADDRESS:
P.O. Box 8953, Madison, WI 53708

OFFICE LOCATION:
State Capitol, Room 418 North
(608) 266-8570 • Fax: (608) 282-3678
Email: rep.pocan@legis.state.wi.us

~~Call Mary Lou~~
Call Mary Lou

note

problem w/ int'l applicability

for thing

note re,
taxes

effective date
rules?

1 yr?

forms →

(see cov. marriage bill)

file a record

Exempt as
provided
7.01(2)

69.01(16) ✓

69.03(8)

69.16(1) ✓

66.117(2)(a) ✓

46.03(34) ✓

48.14(16)

48.575(2)(em)

89.7965

767.03(4) ✓

*

unless the context requires otherwise

71.01(8)

MES stays

make fee the same as marriage license fee

NY
Oregon
Hawaii
Iowa?
Mass?

look at
ACLU
to me

broader 770.20 if possible

needed by Thurs.
14th

"including dissolution of marriage"



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0189/1
PJK:kmg:ijs

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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Thurs

D-note

regenerate cost

1 **AN ACT** to create chapter 770 of the statutes; **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)**~~ **(2)** Neither individual is married to, or registered in a domestic partnership
7 with, another individual.

8 ~~**(4)**~~ **(3)** The 2 individuals are not related by blood in any way that would prohibit
9 marriage under s. 765.03.

10 ~~**(5)**~~ **(4)** 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)** (a) Individuals who wish to form a domestic
15 partnership shall apply for a declaration of domestic partnership to the county clerk
16 of the county in which at least one of the individuals has resided for at least 30 days
17 immediately before applying.

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

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

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

5 (d) Each party shall present satisfactory, documentary proof of identification
6 and residence and shall swear, or affirm, to the application before the clerk who is
7 to issue the declaration of domestic partnership. In addition to the social security
8 number of each party who has a social security number, the application shall contain
9 such informational items as the department of health and family services directs.
10 The portion of the application form that is collected for statistical purposes only shall
11 indicate that the address of an applicant may be provided by a county clerk to a law
12 enforcement officer under the conditions specified under s. 770.18 (2). Each
13 applicant who is under 30 years of age shall exhibit to the clerk a certified copy of a
14 birth certificate, and any applicant shall submit a copy of any judgments or a death
15 certificate affecting the domestic partnership status. If such certificate or judgment
16 is unobtainable, other satisfactory documentary proof may be presented instead.
17 Whenever the clerk is not satisfied with the documentary proof presented, he or she
18 shall submit the proof, for an opinion as to its sufficiency, to a judge of a court of record
19 in the county of application.

20 (2) If sub. (1) and s. 770.05 are complied with, the county clerk shall issue a
21 declaration of domestic partnership. With each declaration of domestic partnership
22 the county clerk shall provide a pamphlet describing the causes and effects of fetal
23 alcohol syndrome. After the application for the declaration of domestic partnership
24 the clerk shall, upon the sworn statement of either of the applicants, correct any
25 erroneous, false or insufficient statement in the application which shall come to the

clerk's attention and shall show the corrected statement, as soon as reasonably possible, to the other applicant.

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

770.15 Forms for declaration. (1) The application and declaration of domestic partnership under s. 770.07 shall contain such information as the department of health and family services determines is necessary. The form for the declaration of domestic partnership shall require both individuals forming a domestic partnership to sign the form and attest to fulfilling all of the criteria under s. 770.05 (1) to (6). ⁴

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

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

Insert 4-24

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.

24 **770.20 Effect of forming domestic partnership.** Except in ch. 765, any
25 statute that applies to a married person; including but not limited to a spouse;

1 husband, if appropriate; wife, if appropriate; widow, if appropriate; widower; if
2 appropriate; or family that includes a spouse; applies in the same respect
3 to a domestic partner. Except in ch. 765, any statute that applies to marriage or a
4 marital relationship applies in the same respect to a domestic partnership. Except
5 in ch. 765, any statute that applies to a marriage license, certificate or document
6 applies in the same respect to a declaration of domestic partnership.

7

(END)

Insert
6-6

D-100

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0189/P1ins
PJK:kmg:ijs

INSERT A

Current law specifies the requirements for contracting and for dissolving a marriage, which is defined in the statutes as a civil contract creating the legal status of husband and wife. In addition, the statutes set out various rights and responsibilities that apply to married persons or that result from the legal status of marriage.

1 → This bill provides requirements for forming ^athe legal relationship^{two} of domestic partnership. Under the bill, a domestic partnership may be formed by ~~2~~ individuals who are at least 18 years old and who are not married or in another domestic partnership. The individuals may not be related to each other by blood in any way that would prohibit them from marrying under the laws of the state (generally, not nearer of kin than ~~2nd~~ cousins) and must consider themselves to be members of each other's immediate family. second

111 → The procedure for obtaining a declaration of domestic partnership is similar to the procedure for obtaining a marriage license. The individuals apply to the county clerk of the county in which at least one of them has resided for at least 30 days ~~for~~ declaration. 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 and family services directs. Just as with an application for a marriage license, a portion of the application for a declaration of domestic partnership contains information that is collected for statistical purposes only and is not open to public inspection. If the county clerk is satisfied that 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 ~~file it with~~ 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.

Submit it to →

a declaration of domestic partnership

The bill provides that any state statute that applies to a married person or a formerly married person, such as a widow, applies in the same respect to a domestic partner or a person who was formerly a domestic partner; that any state statute that applies to marriage or a marital relationship, including dissolution of a marriage, applies in the same respect to a domestic partnership; and that any state statute that applies to a marriage document applies in the same respect to a declaration of domestic partnership. Thus, under the bill for example, the statutory divorce procedure and property division would apply to the dissolution of a domestic partnership; the marital property provisions of current law would apply to domestic partners; a domestic partner would have the same intestate inheritance rights as a spouse and the same election rights under a will; domestic partners would be entitled to adopt; domestic partners could file joint state income tax returns; a domestic partner could consent to an autopsy on the body of his or her deceased domestic partner; a domestic partner could make a claim for loss of society and companionship in the event of the wrongful death of his or her domestic partner; domestic partners could obtain a combined fishing license; a domestic partner would

have an evidentiary privilege to prevent his or her domestic partner from testifying as to any private ~~communicaton~~ between the two during their domestic partnership; and a domestic partner could receive death benefits under the 'worker's compensation law as the result of the employment-related death of his or her domestic partner.

(ENDOFINSERTA)

INSERT 1-2

1 SECTION 1. 69.16 (1) [✓] of the statutes is amended to read:
2 69.16 (1) ~~The~~ Except as provided in ch. 770. [✓] the form, content, application for
3 and registration, of marriage documents shall be under ch. 765.

History: 1985 a. 315.

(END OF INSERT 1-2)

INSERT 4-24

4 **770.17 Fee to county clerk.** Each county clerk shall receive as a fee for each
5 declaration of domestic partnership issued the same amount that the clerk receives
6 for issuing a marriage license under s. 765.15. [✓] Of the amount that the clerk receives
7 under this section, the clerk shall pay into the state treasury the same amount that
8 the clerk pays into the state ^{from the fee collected} treasury for issuing a marriage license. The remainder
9 shall become a part of the funds of the county For each declaration of domestic
10 partnership issued, the clerk shall also receive a standard notary fee in, the same
11 amount that the clerk receives as a standard notary fee ^{in connection with} ~~for~~ issuing a marriage license
12 and ^{that} ~~which~~ may be retained by the clerk if the clerk is operating on a fee or part-fee
13 basis but which otherwise shall become part of the funds of the county

(END OF INSERT 4-24)

INSERT 6-6

14 **770.20 Effect of forming domestic partnership.** Except in ch. [✓] 765, all of
15 the following apply:

1 (1) Any statute that applies to a married person or a formerly married person;
2 including but not limited to a spouse; husband, if appropriate; wife, if appropriate;
3 widow, if appropriate; widower, if appropriate; or family member that includes a
4 spouse; applies in the same respect to a domestic partner or a person who was
5 formerly a domestic partner.

6 (2) Any statute that applies to marriage or a marital relationship, including
7 dissolution of a marriage, applies in the same respect to a domestic partnership.

8 (3) Any statute that applies to a marriage license, certificate or document,
9 including the application or an applicant for such a document, applies in the same
10 respect to a declaration of domestic partnership.


11 **SECTION 2. Effective date.**

12 (1) This act takes effect on the first day of the ^{13th}~~7th~~ month beginning after
13 publication.

(END OF INSERT 6-6)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0189/P1dn
PJK:kmg:ijs

#1. 

Section 770.20 created in this bill attempts to make all of the statutes that apply to married persons, marriage and marriage documents apply in the same respect to domestic partners, domestic partnerships and declarations of domestic partnership. The fit may not be perfect in every situation, however. For example, s. 71.01 (8) defines a "married person" as "a person determined under section 7703 (a) of the internal revenue code to be married, unless the context requires otherwise." Section 7703 (a) of the IRC does not include a domestic partner; however, one could argue that "unless the context requires otherwise" allows the definition to include domestic partners because of s. 770.20.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

#2. This bill has a 6-month delay in the effective date to give DHFS some time to prepare and distribute the necessary forms. Let me know if you want this changed.

DRAFTERS NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0189/1dn
PJK:kmg&jlg:mrc

October 13, 1999

Section 770.20 created in this bill attempts to make all of the statutes that apply to married persons, marriage and marriage documents apply in the same respect to domestic partners, domestic partnerships and declarations of domestic partnership. The fit may not be perfect in every situation, however. For example, s. 71.01 (8) defines a "married person" as "a person determined under section 7703 (a) of the internal revenue code to be married, unless the context requires otherwise." Section 7703 (a) of the IRC does not include a domestic partner; however, one could argue that "unless the context requires otherwise" allows the definition to include domestic partners because of s. 770.20.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us



run is run

1999 BILL

today if possible
(only
2 changes
to analysis)

Regen

- 1 AN ACT to **amend** 69.16 (1); and **to** create chapter 770 of the statutes; **relating**
- 2 **to:** domestic partnership.

Analysis by the Legislative Reference Bureau

Current law specifies the requirements for contracting and for dissolving a marriage, which is defined in the statutes as a civil contract creating the legal status of husband and wife. In addition, the statutes set out various rights and responsibilities that apply to married persons or that result from the legal status of marriage.

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 may not be related to each other by blood in any way that would prohibit them from marrying under the laws of the state (generally, not nearer of kin than second cousins) and must consider themselves to be members of each other's immediate family

The procedure for obtaining a declaration of domestic partnership is similar to the procedure for obtaining a marriage license. 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 and family services directs. Just as with an application for a marriage license, a portion of the application for a

(200)

Just as with an application for a marriage license, the

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declaration of domestic partnership contains information that is collected for statistical purposes only and is not open to public inspection. If the ~~county clerk is~~ *satisfied that 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.

The bill provides that any state statute that applies to a married person or a formerly married person, such as a widow, applies in the same respect to a domestic partner or a person who was formerly a domestic partner; that any state statute that applies to marriage or a marital relationship, including dissolution of a marriage, applies in the same respect to a domestic partnership; and that any state statute that applies to a marriage document applies in the same respect, to a declaration of domestic partnership. Thus, under the bill for example, the statutory divorce procedure and property division would apply to the dissolution of a domestic partnership; the marital property provisions of current law would apply to domestic partners; a domestic partner would have the same intestate inheritance rights as a spouse and the same election rights under a will; domestic partners would be entitled to adopt; domestic partners could file joint state income tax returns; a domestic partner could consent to an autopsy on the body of his or her, deceased domestic partner; a domestic partner could make a claim for loss of society and- companionship in the event of the wrongful death of his or her domestic partner; domestic partners could obtain a 'combined fishing license; a domestic partner would have an evidentiary privilege to prevent his or her domestic partner from testifying as to any private communication between the two during their domestic partnership; and a domestic partner could receive death benefits under the worker's compensation law as the result of the employment-related death of his or her domestic partner.

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

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

SECTION 1. 69.16 (1) of the statutes is amended to read:

69.16 (1) The Except as provided in ch. 770, the form, content, application for and registration of marriage documents shall be under ch. 765.

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

CHAPTER 770

DOMESTIC PARTNERSHIP

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

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

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

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

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

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

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

15 **(4)** The 2 individuals consider themselves to be members of each other's
16 immediate family.

17 **770.07 Application.** **(1) (a)** Individuals who wish to form a domestic
18 partnership shall apply for a declaration of domestic partnership to the county clerk
19 of the county in which at least one of the individuals has resided for at least 30 days
20 immediately before applying.

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

24 **2.** The county clerk may, at his or her discretion, issue a declaration of domestic
25 partnership less than 5 days after application if the applicant pays an additional fee

BILL

1 of not more than \$10 to cover any increased processing cost incurred by the county.

2 The county clerk shall pay this fee into the county treasury.

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

7 (d) Each party shall present satisfactory, documentary proof of identification
8 and residence and shall swear, or **affirm**, to the application before the clerk who is
9 to issue the declaration of domestic partnership. In addition to the social security
10 number of each party who has a social security number, the application shall contain
11 such informational items as the department of health and family services directs.

12 The portion of the application form that is collected for statistical purposes only shall
13 indicate that the address of an applicant **may** be provided by a county clerk to a law
14 enforcement officer under the conditions specified under s. 770.18 (2). Each
15 applicant who is under 30 years of age shall exhibit to the clerk a certified copy of a
16 birth certificate, and any applicant shall submit a copy of any judgments or a death
17 certificate affecting the domestic partnership status. If such certificate or judgment
18 is unobtainable, other satisfactory documentary proof may be presented instead.
19 Whenever the clerk is not satisfied with the documentary proof presented, he or she
20 shall submit the proof, for an opinion as to its sufficiency, to a judge of a court of record
21 in the county of application.

22 (2) If sub. (1) and s. 770.05 are complied with, the county clerk shall issue a
23 declaration of domestic partnership. With each declaration of domestic partnership
24 the county clerk shall provide a pamphlet describing the causes and effects of fetal
25 alcohol syndrome. After the application for the declaration of domestic partnership

BILL

1 the clerk shall, upon the sworn statement of either of the applicants, correct any
2 erroneous, false or insufficient statement in the application which shall come to the
3 clerk's attention and shall show the corrected statement, as soon as reasonably
4 possible, to the other applicant.

5 **770.10 Completion and filing of declaration.** In order to form the legal
6 status of domestic partners, the individuals shall complete the declaration of
7 domestic partnership, sign the declaration, having their signatures acknowledged
8 before a notary, and submit the declaration to the register of deeds of the county in
9 which they reside. The register of deeds shall record the declaration and forward the
10 original to the state registrar of vital statistics.

11 **770.15 Forms for declaration. (1)** The application and declaration of
12 domestic partnership under s. 770.07 shall contain such, information as the
13 department of health and family services determines is necessary.. The, form for the
14 declaration of domestic partnership shall require both individuals forming a
15 domestic partnership to sign the form and attest to fulfilling all of the criteria under
16 s. 770.05 (1) to (4).

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

19 **770.17 Fee to county clerk.** Each county clerk shall receive as a fee for each
20 declaration of domestic partnership issued the same amount that the clerk receives
21 for issuing a marriage license under s. 765.15. Of the amount that the clerk receives
22 under this section, the clerk shall pay into the state treasury the same amount that
23 the clerk pays into the state treasury from the fee collected for issuing a marriage
24 license. The remainder shall become a part of the funds of the county. For each
25 declaration of domestic partnership issued, the clerk shall also receive a standard

BILL

1 notary fee in the same amount that the clerk receives as a standard notary fee in
2 connection with issuing a marriage license and that may be retained by the clerk if
3 the clerk is operating on a fee or part-fee basis but which otherwise shall become part
4 of the funds of the county.

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

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

BILL

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

3 **770.20 Effect of forming domestic partnership.** Except in ch. 765, all of
4 the following apply:

5 (1) Any statute that applies to a married person or a formerly married person;
6 including but not limited to a spouse; husband, if appropriate; wife, if appropriate;
7 widow, if appropriate; widower, if appropriate; or family member that includes a
8 spouse; applies in the same respect to a domestic partner or a person who was
9 formerly a domestic partner.

10 (2) Any statute that applies to marriage or a marital relationship, including
11 dissolution of a marriage, applies in the same respect to a domestic partnership.

12 (3) Any statute that applies, to a marriage license, certificate or document,
13 including the application or an applicant for, such a document, applies in the same
14 respect to a declaration of domestic partnership.

15 **SECTION 3. Effective date.**

16 (1) This act takes effect on the first day of the 13th month beginning after
17 publication.

18 **(END)**

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23



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0189/3
PJK:kmg&jlg:hmb

rm is run

today if possible
(Fri)
pp 2 & 7

1999 BILL

Reagen

1 **AN ACT** *to amend* 69.16 (1); and to **create** ch.Xvi.770 of the statutes; **relating**
2 **to:** domestic partnership:

Analysis by the Legislative Reference Bureau

Current law specifies the requirements for contracting and for dissolving a marriage, which is defined in the statutes as a civil contract creating the legal status of husband and wife. In addition, the statutes set out various rights and responsibilities that apply to married persons or that result from the legal status of marriage.

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 may not be related to each other by blood in any way that would prohibit them from marrying under the laws of the state (generally, not nearer of kin than second cousins) and must consider themselves to be members of each other's immediate family.

The procedure for obtaining a declaration of domestic partnership is similar to the procedure for obtaining a marriage license. 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. Just as with an application for a marriage license, the application must contain the social security numbers of the parties, as well as any other information that the department of health and family services directs. Just as with an application for a

BILL

marriage license, a portion of the application for a declaration of domestic partnership contains information that is collected for statistical purposes only and is not open to public inspection. 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.

The bill provides that any state statute that applies to a married person or a formerly married person, such as a widow, applies in the same respect to a domestic partner or a person who was formerly a domestic partner; that any state statute that applies to marriage or a marital relationship, including dissolution of a marriage, applies in the same respect to a domestic partnership; and that any state statute that applies to a marriage document applies in the same respect to a declaration of domestic partnership. Thus, under the bill for example, the statutory divorce procedure and property division would apply to the dissolution of a domestic partnership; the marital property provisions of current law would apply to domestic partners; a domestic partner would have the same intestate inheritance rights as a spouse and the same election rights under a will; domestic partners would be entitled to adopt; domestic partners could file joint state income tax returns; a domestic partner could consent to an autopsy on the body of his or her deceased domestic partner; a domestic partner could make a claim for loss of society and companionship in the event of the wrongful death of his or her domestic partner; domestic partners could obtain a combined fishing license;* a domestic partner would have an evidentiary privilege to prevent his or her domestic partner from testifying as to any private communication between the two during their domestic partnership; and a domestic partner could receive death benefits under the worker's compensation law as the result of the employment-related death of his or her domestic partner.

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

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

SECTION 1. 69.16 (1) of the statutes is amended to read:

69.16 (1) ~~The~~ Except as provided in ch. 770, the form, content, application for and registration of marriage documents shall be under ch. 765.

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

C - R 7 7 0

DOMESTIC PARTNERSHIP

BILL

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3 declaration of domestic partnership in the office of the register of deeds of the county
4 in which he or she resides.

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

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

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

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12 with, another individual.

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17 **770.07 Application.** **(1)** (a) Individuals who wish to form a domestic
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20 immediately before applying.

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

24 2. The county clerk may, at his or her discretion, issue a declaration of domestic
25 partnership less than 5 days after application if the applicant pays an additional fee

BILL

1 of not more than \$10 to cover any increased processing cost incurred by the county.

2 The county clerk shall pay this fee into the county treasury.

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

7 (d) Each party shall present satisfactory, documentary proof of identification
8 and residence and shall swear, or affirm, to the application before the clerk who is
9 to issue the declaration of domestic partnership. In addition to the social security
10 number of each party who has a social security number, the application shall contain
11 such **informational items** as the department of health and family services directs.
12 The **portion of the application** form that is collected for **statistical purposes** only shall
13 indicate that the address of an applicant may be provided **by a** county clerk to a law
14 enforcement **officer** under the conditions specified under s. 770.18 (2). Each
15 applicant who is under 30 years of age shall exhibit to the clerk a certified copy of a
16 birth certificate, and any applicant shall submit a copy of any judgments or a death
17 certificate affecting the domestic partnership status. If such certificate or judgment
18 is unobtainable, other satisfactory documentary proof may be presented instead.
19 Whenever the clerk is not satisfied with the documentary proof presented, he or she
20 shall submit the proof, for an opinion as to its sufficiency, to a judge of a court of record
21 in the county of application.

22 (2) If sub. (1) and s. 770.05 are complied with, the county clerk shall issue a
23 declaration of domestic partnership. With each declaration of domestic partnership
24 the county clerk shall provide a pamphlet describing the causes and effects of fetal
25 alcohol syndrome. After the application for the declaration of domestic partnership

BILL

1 the clerk shall, upon the sworn statement of either of the applicants, correct any
2 erroneous, false or insufficient statement in the application which shall come to the
3 clerk's attention and shall show the corrected statement, as soon as reasonably
4 possible, to the other applicant.

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6 status of domestic partners, the individuals shall complete the declaration of
7 domestic partnership, sign the declaration, having their signatures acknowledged
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10 original to the state registrar of vital statistics.

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13 department of health and family services determines is necessary. The form for the
14 declaration of domestic partnership shall require both individuals forming a
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17 (2) The department of health and family services shall prepare and distribute
18 forms under sub. (1) in sufficient quantities to each county clerk.

19 **770.17 Fee to county clerk.** Each county clerk shall receive as a fee for each
20 declaration of domestic partnership issued the same amount that the clerk receives
21 for issuing a marriage license under s. 765.15. Of the amount that the clerk receives
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24 license. The remainder shall become a part of the funds of the county. For each
25 declaration of domestic partnership issued, the clerk shall also receive a standard

BILL

1 notary fee in the same amount that the clerk receives as a standard notary fee in
2 connection with issuing a marriage license and that may be retained by the clerk if
3 the clerk is operating on a fee or part-fee basis but which otherwise shall become part
4 of the funds of the county.

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

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

BILL

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

3 **770.20 Effect of forming domestic partnership.** Except in ch. 765, all of
4 the following apply:

5 (1) Any statute *or rule* that applies to a married person or a formerly married person;
6 including but not limited to a spouse; husband, if appropriate; wife, if appropriate;
7 widow, if appropriate; widower, if appropriate; or family member that includes a
8 spouse; applies in the same respect to a domestic partner or a person who was
9 formerly a domestic partner. *or rule*

10 (2) Any statute *or rule* that applies to marriage or a marital relationship, including
11 dissolution of a marriage, applies in the same respect to a domestic partnership.

12 (3) Any statute *or rule* that applies to a marriage license,, certificate or document,
13 including the application or an applicant for such a document, applies in the same
14 respect to a declaration of domestic partnership.

15 **SECTION 3. Effective date.**

16 (1) This act takes effect on the first day of the 13th month beginning after
17 publication.

18 **(END)**

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SUBMITTAL FORM

LEGISLATIVE REFERENCE BUREAU Legal Section Telephone: 266-3561 5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 10/15/1999

To: Representative Boyle

Relating to LRB drafting number: LRB-0189

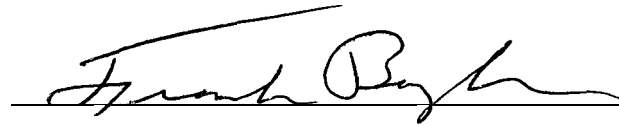
Topic

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

Subject(s)

Dom. Rel. - miscellaneous

1. **JACKET** the draft for introduction



in the **Senate** ____ or the **Assembly** <check only one>. Only the requester under whose name the drafting request is entered in the **LRB's** drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Pamela J. Kahler, Senior Legislative Attorney
Telephone: (608) 266-2682

