

## Lief, Madelon

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**From:** Schneider, Marlin  
**Sent:** Thursday, January 06, 2005 4:03 PM  
**To:** Lief, Madelon  
**Subject:** RE: Domestic partnership health insurance benefits for UW employees

O.K. Do it the best way, the one you recommend in your email. Thanks. - Marlin

-----Original Message-----

**From:** Lief, Madelon  
**Sent:** Thursday, January 06, 2005 4:00 PM  
**To:** Schneider, Marlin  
**Subject:** RE: Domestic partnership health insurance benefits for UW employees

I talked to Rick Champagne in our office about this (he does chapter 40 drafting) and he says that it varies throughout the Big Ten. Pam Kahler, who drafts in the insurance area, thinks it makes most sense to do it in chapter 40, so that domestic partners are treated as spouses and get the same coverage. Otherwise, UW would have to negotiate a private contract with a company that may not offer comparable coverage. It's my understanding the UW is more than willing to negotiate a contract, but I don't know what kind of benefits they would be able to obtain. So, in sum, if by more effective you mean comprehensive and identical to spousal benefits, I think ch. 40 is the way to go. I can call David Miller at UW and ask him what they would prefer to do and let you know.

-----Original Message-----

**From:** Schneider, Marlin  
**Sent:** Thursday, January 06, 2005 3:53 PM  
**To:** Lief, Madelon  
**Subject:** RE: Domestic partnership health insurance benefits for UW employees

I don't know the answer to that. Perhaps you could ask the university how this is handled in the rest of the Big Ten. There was an editorial about this issue in the State Journal but I do not recall if that issue was addressed. Whichever is most effective. I don't know. Either way is fine with me. It is also O.K. to discuss who (me) is responsible for this bill. It is not a secret.

-----Original Message-----

**From:** Lief, Madelon  
**Sent:** Thursday, January 06, 2005 11:28 AM  
**To:** Schneider, Marlin  
**Subject:** Domestic partnership health insurance benefits for UW employees

I'm working with Pam Kahler on your draft that deals with domestic partnership and marriage, specifically the part requiring UW to offer domestic partnership health insurance. My question is whether you want domestic partners covered as spouses are under ETF (chapter 40) or whether you want to require UW to procure private health insurance for domestic partners.

Madelon (Lonnice) Lief  
Senior Legislative Attorney  
Legislative Reference Bureau  
608-267-7380  
madelon.lief@legis.state.wi.us

1/6 - Called David - he's no longer leg team  
for Margaret Lewis - 2-4464  
left ML a detailed message  
1/7 - Margaret Lewis returned call  
UW wants ch. 40 coverage

# Memo

**To:** Lonnie

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**From:** Pam

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**Subject:** Marlin Schneider draft (LRB-0690)

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**Date:** Jan. 4, 2005

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Hi, Lonnie:

Welcome back. I had some extra time today so I thought I would put in writing Marlin's request for an addition to a draft of mine that was jacketed but which he sent back for redrafting.

The draft combined two separate drafts: one that defines marriage as between one man and one woman and one that creates a method for legally establishing a domestic partnership. Marlin wants to add to that draft a requirement that UW cover domestic partners under its health insurance. Apparently, the UW is either the only Big Ten school or one of only two or so Big Ten schools that does not now cover domestic partners under its health insurance. This issue was "in the news" a little while ago.

I assume that, because the draft creates a way for people to become domestic partners, he wants domestic partners who are eligible for the health insurance coverage to have done what is required under the draft, and those provisions do not go into effect for a year (first day of the 13th month beginning after publication). I did not ask him that, though.

He specifically requested that the UW health insurance requirement be addressed first in the analysis. Since it relates to domestic partners, perhaps the Domestic Partnership part should come second and the Defining Marriage part last – those two are in the opposite order now.

Marlin asked for this last week. Since you were gone, I told Peter Grant about the request, and he wanted to know if Marlin could wait until you came back. I asked Marlin, and he said waiting until you got back was fine.

Obviously, let me know if you have any questions. Thanks!

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

690/3dm  
LRB-1517/1dm  
RAC:lmk:rs  
lmk

January 10, 2005  
(date)

~~\_\_\_\_\_~~ / Rep. Schneider

Per your instructions, the bill provides that domestic partners of all employees of the Board of Regents of the University of Wisconsin (UW) System are to be covered under the state employee health care coverage program, not in a program established and offered by the UW System. In reviewing the bill, please note the following: ✓

1. The Group Insurance Board, by rule and contract, establishes and administers the state employee health insurance program; the UW System is not involved at all in this program. The Group Insurance Board bargains with insurers to provide individual and family coverage for all state employees across all state agencies and most state authorities. ✓ To date, there has been no provision in the contract or a promulgated rule that treats employees of one state agency differently from employees of another state agency. ✓ This bill will require that the Group Insurance Board administer a program that defines family coverage one way for one state agency, and another way for a different state agency. ✓ You may wish to speak with the Group Insurance Board (or the Department of Employee Trust Funds) regarding any issues affecting the contracting of this differential treatment or the implementation of this provision. ✓

2. The bill covers all UW System employees, not just faculty and academic staff. This may present some difficulty in implementation. Please note that most classified UW System employees are in collective bargaining units that also consist of employees from other state agencies. ✓ Since health insurance benefits are mandatory subjects of bargaining under the State Employment Labor Relations Act (SELRA), it is unclear how this change in the law will interact with SELRA. ✓ More directly, it is uncertain whether this change in law with respect to family insurance coverage under the state employee health care plan will actually be implemented in the way you envision unless it is agreed to in the collective bargaining process. The way to ensure that it is implemented in the way you envision is to make the definition of "dependent" under s. 40.02 (20) a prohibited subject of bargaining. Another alternative is to limit the bill's coverage to faculty and academic staff, who are not included under SELRA.

3. An alternative to the provisions of the bill is to provide domestic partner benefits outside of the state employee health care program and instead direct the Board of Regents of the UW System to procure health insurance coverage for the domestic partners of their faculty and academic staff. For example, the Board of Regents is now ✓

currently authorized to provide certain employee benefits to some of its employees that are not offered other state employees, such as deferred tax annuities for all of its employees or a pension plan for its football coaches. In this way, you can target those employees whose health insurance options you are trying to expand without altering the terms or operations of the larger state employee health insurance program.✓

4. Please note that for the definition of "domestic partnership" I relied on 2001 Assembly Bill 720, which was authored by Reps. Pocan, Boyle, Carpenter, Berceau, Black, Bock, Colon, J. Lehman, Miller, Richards, Sinicki, Travis, and Young, and co-sponsored by Sens. Risser, Burke, and George. Please let me know if this definition works for you.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us



2005 BILL

RMR

D-Note  
Soon  
(1-10)

Regenerate

Insert 1-4

1 AN ACT *to renumber and amend* 765.01; *to amend* 765.001 (2); and *to create*  
2 765.01 (2), chapter 770, 990.01 (19p) and 990.01 (39) of the statutes; **relating**  
3 **to:** defining marriage as between one man and one woman and establishing  
4 domestic partnership.

*Analysis by the Legislative Reference Bureau*

**Defining marriage**

Current law provides that marriage is a civil contract that creates the legal status of husband and wife. Current law prohibits certain marriages, such as a marriage between persons who are nearer of kin than second cousins or a marriage in which at least one of the persons was divorced less than six months before the marriage. If a person who is prohibited from marrying in this state leaves the state for the purpose of contracting a marriage in a state where the marriage is valid, that marriage is void in this state. Such a person will be considered to have left this state for the purpose of marrying in the other state if he or she lived in this state within 12 months before marrying in the other state and resumed residence in this state within 18 months after leaving this state, or if he or she maintained a residence in this state the entire time that he or she was away.

This bill specifies that marriage is a civil contract between one man and one woman. The bill provides that only marriage between one man and one woman will be recognized as valid in this state, regardless of whether a marriage took place in a jurisdiction that defined marriage other than between one man and one woman as

Insert Analysis RAC

**BILL**

valid, and regardless of whether the statute regarding marrying in another state to circumvent the marriage laws of this state applies to a marriage. The bill provides definitions for “spouse” and “marriage” for purposes of statutory construction. A “spouse” is defined as a party to a marriage, and “marriage” is defined as a civil contract between one man and one woman that creates the legal status for the parties of husband and wife.

***Domestic partnership***

Current law specifies the requirements for contracting and for dissolving a marriage and, in addition, sets 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 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 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 either party resides. 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 or rule 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 or rule 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 or rule 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

**BILL**

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:*

Insert 3-1

1

SECTION 1. 765.001 (2) of the statutes is amended to read:

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765.001 (2) INTENT. It is the intent of chs. 765 to 768 to promote the stability and best interests of marriage and the family. It is the intent of the legislature to recognize the valuable contributions of both spouses during the marriage and at termination of the marriage by dissolution or death. Marriage is the institution that is the foundation of the family and of society. Its stability is basic to morality and civilization, and of vital interest to society and the state. The consequences of the marriage contract are more significant to society than those of other contracts, and the public interest must be taken into account always. The seriousness of marriage makes adequate premarital counseling and education for family living highly desirable and courses thereon are urged upon all persons contemplating marriage. The impairment or dissolution of the marriage relation generally results in injury to the public wholly apart from the effect upon the parties immediately concerned. It is the public policy of this state that marriage may be contracted only between one man and one woman. Under the laws of this state, marriage is a legal relationship between 2 equal persons, a husband and wife, who owe to each other mutual

**BILL**

1 responsibility and support. Each spouse has an equal obligation in accordance with  
2 his or her ability to contribute money or services or both which are necessary for the  
3 adequate support and maintenance of his or her minor children and of the other  
4 spouse. No spouse may be presumed primarily liable for support expenses under this  
5 subsection.

6 **SECTION 2.** 765.01 of the statutes is renumbered 765.01 (1) and amended to  
7 read:

8 765.01 (1) Marriage, so far as its validity at law is concerned, is a civil contract  
9 between one man and one woman, to which the consent of the parties capable in law  
10 of contracting is essential, and which creates the legal status of husband and wife.

11 **SECTION 3.** 765.01 (2) of the statutes is created to read:

12 765.01 (2) Regardless of whether s. 765.04 applies and regardless of whether  
13 a marriage takes place in another jurisdiction in which marriage other than between  
14 one man and one woman is defined as valid, only marriage between one man and one  
15 woman shall be recognized as valid in this state.

16 **SECTION 4.** Chapter 770 of the statutes is created to read:

**CHAPTER 770****DOMESTIC PARTNERSHIP**

17  
18  
19 **770.01 Definitions.** In this chapter:

20 (1) “Domestic partner” means an individual who has signed and filed a  
21 declaration of domestic partnership in the office of the register of deeds as provided  
22 under s. 770.10.

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



**BILL**

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

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

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

11           **770.07 Application.** (1) (a) Individuals who wish to form a domestic  
12 partnership shall apply for a declaration of domestic partnership to the county clerk  
13 of the county in which at least one of the individuals has resided for at least 30 days  
14 immediately before applying.

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

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

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

**BILL**

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

10 2. Each applicant for a declaration of domestic partnership who is under 30  
11 years of age shall exhibit to the clerk a certified copy of a birth certificate, and shall  
12 submit a copy of any judgment or death certificate affecting the applicant's domestic  
13 partnership status. If any applicable birth certificate, death certificate, or judgment  
14 is unobtainable, other satisfactory documentary proof may be presented instead.  
15 Whenever the clerk is not satisfied with the documentary proof presented, he or she  
16 shall submit the presented proof to a judge of a court of record in the county of  
17 application for an opinion as to its sufficiency.

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

**BILL**

1           **770.10 Completion and filing of declaration.** In order to form the legal  
2 status of domestic partners, the individuals shall complete the declaration of  
3 domestic partnership, sign the declaration, having their signatures acknowledged  
4 before a notary, and submit the declaration to the register of deeds of the county in  
5 which either individual resides. The register of deeds shall record the declaration  
6 and forward the original to the state registrar of vital statistics.

7           **770.15 Forms for declaration.** (1) The application and declaration of  
8 domestic partnership under s. 770.07 shall contain such information as the  
9 department of health and family services determines is necessary. The form for the  
10 declaration of domestic partnership shall require both individuals forming a  
11 domestic partnership to sign the form and attest to fulfilling all of the criteria under  
12 s. 770.05 (1) to (4).

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

15           **770.17 Fee to county clerk.** Each county clerk shall receive as a fee for each  
16 declaration of domestic partnership issued the same amount that the clerk receives  
17 for issuing a marriage license under s. 765.15. Of the amount that the clerk receives  
18 under this section, the clerk shall pay into the state treasury the same amount that  
19 the clerk pays into the state treasury from the fee collected for issuing a marriage  
20 license. The remainder shall become a part of the funds of the county. For each  
21 declaration of domestic partnership issued, the clerk shall also receive a standard  
22 notary fee in the same amount that the clerk receives as a standard notary fee in  
23 connection with issuing a marriage license and that may be retained by the clerk if  
24 the clerk is operating on a fee or part-fee basis but which otherwise shall become part  
25 of the funds of the county.

**BILL****SECTION 4**

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 that 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, all of  
25 the following apply:

**BILL**

1 (1) Except for s. 990.01 (39), any statute or rule that applies to a married person  
2 or a formerly married person; including but not limited to a spouse; husband, if  
3 appropriate; wife, if appropriate; widow, if appropriate; widower, if appropriate; or  
4 family member that includes a spouse; applies in the same respect to a domestic  
5 partner or a person who was formerly a domestic partner.

6 (2) Except for ss. 48.14 (6) and 990.01 (19p), any statute or rule that applies  
7 to marriage or a marital relationship, including dissolution of a marriage, applies in  
8 the same respect to a domestic partnership.

9 (3) Except for ss. 46.03 (34), 69.01 (16), and 69.16 (1), any statute or rule that  
10 applies to a marriage license, certificate, or document or the application or applicant  
11 for such a document, applies in the same respect to a declaration of domestic  
12 partnership or the application or applicant for a declaration.

13 **SECTION 5.** 990.01 (19p) of the statutes is created to read:

14 990.01 (19p) MARRIAGE. "Marriage" means a civil contract between one man  
15 and one woman that creates the legal status for the parties of husband and wife.

16 **SECTION 6.** 990.01 (39) of the statutes is created to read:

17 990.01 (39) SPOUSE. "Spouse" means a party to a marriage.

18 **SECTION 7. Effective dates.** This act takes effect on the day after publication,  
19 except as follows:

20 (1) DOMESTIC PARTNERSHIPS. The treatment of chapter 770 of the statutes takes  
21 effect on the first day of the 13th month beginning after publication.

22 (END)

Insert 9-18

D-Note



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1517/1  
RAC:lmk:rs

2005 BILL

1-4

1 AN ACT to amend 40.02 (20) and 40.55 (1); and to create 40.02 (20) (b), 40.02  
2 (21c) and 40.02 (21d) of the statutes; relating to: providing coverage for  
3 domestic partners of University of Wisconsin System employees and  
4 annuitants under health care coverage plans and long-term care insurance  
5 policies offered by the Group Insurance Board.

anal: sub: sub → Health insurance benefits for domestic partners of University of Wisconsin  
Analysis by the Legislative Reference Bureau

Under current law, the Group Insurance Board offers health care coverage plans for state employees, local government employees, school district employees, and annuitants under the Wisconsin Retirement System. In addition, the Group Insurance Board currently offers long-term care insurance policies to state employees and state annuitants. Under the health care coverage plans, the employees and annuitants are able to receive coverage for dependents; under the long-term care insurance policies, the employees and annuitants are able to purchase the policies for their spouses and parents. (as defined below)

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

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

System employees and annuitants

**BILL**

2. Neither individual is married to, or in a domestic partnership with, another individual.

3. The two individuals are not related by blood in any way that would prohibit marriage under current law.

4. The two individuals consider themselves to be members of each other's immediate family.

5. The two individuals agree to be responsible for each other's basic living expenses.

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:*

*Fix COMPONENT*

*3-1*

*renumbered 40.02 (20) (intro.) and*

1 SECTION 1. 40.02 (20) of the statutes is amended to read:

2 40.02 (20) <sup>(intro.)</sup> "Dependent" means the:

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

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

11 40.02 (20) (b) For an employee of the Board of Regents of the University of  
12 Wisconsin System or for an annuitant who was employed by the Board of Regents  
13 of the University of Wisconsin System on the day on which he or she terminated  
14 covered employment, the spouse, domestic partner, minor child, including  
15 stepchildren of the current marriage or children of a domestic partner dependent on  
16 the employee for support and maintenance, or child of any age, including



**BILL**

1 stepchildren of the current marriage or children of a domestic partner, if  
2 handicapped to an extent requiring continued dependence.

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

4 40.02 (21c) "Domestic partner" <sup>has the meaning given in s. 770.01(1)</sup> means an individual in a domestic partnership.

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

6 40.02 (21d) "Domestic partnership" <sup>has the meaning given in s. 770.01(2)</sup> means a relationship between 2

7 individuals that satisfies all of the following:

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

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

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

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

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

18 **SECTION 5.** 40.55 (1) of the statutes is amended to read:

19 **40.55 Long-term care coverage.** (1) Except as provided in sub. (5), the state  
20 shall offer, through the group insurance board, to eligible employees under s. 40.02  
21 (25) (bm) and to state annuitants long-term care insurance policies which have been  
22 approved for sale in this state by the office of the commissioner of insurance and  
23 which have been approved for offering under contracts established by the group  
24 insurance board if the insurer requests that the policy be offered, and the state shall  
25 also allow an eligible employee or a state annuitant to purchase those policies for his



BILL

SECTION 5

1 or her spouse or parent. If the eligible employee is employed by the Board of Regents  
 2 of the University of Wisconsin System or if the state annuitant was employed by the  
 3 Board of Regents of the University of Wisconsin System on the day on which he or  
 4 she terminated covered employment, the state shall also allow the eligible employee  
 5 or state annuitant to purchase those policies for his or her domestic partner.

SECTION 6. Initial applicability.

7 (1) This act first applies to coverage under group insurance plans offered by the  
 8 group insurance board on January 1, 2006.

the January 1 that ~~first~~  
 occurs after the first  
 day of the 13th month  
 beginning after publication

The treatment of sections 40.02 (20) and (b) (21c) and (21d) and 40.55 (1) of the statutes

the renumbering and amendment of section  
 40.02 (20) of the statutes, and the creation of section  
 40.02 (20) (b) of the statutes

end of 3-1

9-18

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

LRB-0690/3dn  
RAC:lmk:jf

January 11, 2005

Rep. Schneider:

Per your instructions, the bill provides that domestic partners of all employees of the Board of Regents of the University of Wisconsin (UW) System are to be covered under the state employee health care coverage program, not in a program established and offered by the UW System. In reviewing the bill, please note the following:

1. The Group Insurance Board, by rule and contract, establishes and administers the state employee health insurance program; the UW System is not involved at all in this program. The Group Insurance Board bargains with insurers to provide individual and family coverage for all state employees across all state agencies and most state authorities. To date, there has been no provision in the contract or a promulgated rule that treats employees of one state agency differently from employees of another state agency. This bill will require that the Group Insurance Board administer a program that defines family coverage one way for one state agency, and another way for a different state agency. You may wish to speak with the Group Insurance Board (or the Department of Employee Trust Funds) regarding any issues affecting the contracting of this differential treatment or the implementation of this provision.
2. The bill covers all UW System employees, not just faculty and academic staff. This may present some difficulty in implementation. Please note that most classified UW System employees are in collective bargaining units that also consist of employees from other state agencies. Since health insurance benefits are mandatory subjects of bargaining under the State Employment Labor Relations Act (SELRA), it is unclear how this change in the law will interact with SELRA. More directly, it is uncertain whether this change in law with respect to family insurance coverage under the state employee health care plan will actually be implemented in the way you envision unless it is agreed to in the collective bargaining process. The way to ensure that it is implemented in the way you envision is to make the definition of "dependent" under s. 40.02 (20) a prohibited subject of bargaining. Another alternative is to limit the bill's coverage to faculty and academic staff, who are not included under SELRA.
3. An alternative to the provisions of the bill is to provide domestic partner benefits outside of the state employee health care program and instead direct the Board of Regents of the UW System to procure health insurance coverage for the domestic partners of their faculty and academic staff. For example, the Board of Regents is now

currently authorized to provide certain employee benefits to some of its employees that are not offered other state employees, such as deferred tax annuities for all of its employees or a pension plan for its football coaches. In this way, you can target those employees whose health insurance options you are trying to expand without altering the terms or operations of the larger state employee health insurance program.

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