



## 2001 ASSEMBLY BILL 721

January 14, 2002 - Introduced by Representatives BOYLE, POCAN, CARPENTER, BERCEAU, BLACK, BOCK, MILLER, RICHARDS, RILEY, TRAVIS and YOUNG, cosponsored by Senators RISSER and GEORGE. Referred to Committee on Family Law.

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

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### *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



**ASSEMBLY BILL 721****DOMESTIC PARTNERSHIP**

**770.01 Definitions.** In this chapter:

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

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

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

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

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

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

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

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

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

**ASSEMBLY BILL 721****SECTION 2**

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

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

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

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

**ASSEMBLY BILL 721**

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

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

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

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

23           **770.17 Fee to county clerk.** Each county clerk shall receive as a fee for each  
24 declaration of domestic partnership issued the same amount that the clerk receives  
25 for issuing a marriage license under s. 765.15. Of the amount that the clerk receives

**ASSEMBLY BILL 721**

1 under this section, the clerk shall pay into the state treasury the same amount that  
2 the clerk pays into the state treasury from the fee collected for issuing a marriage  
3 license. The remainder shall become a part of the funds of the county. For each  
4 declaration of domestic partnership issued, the clerk shall also receive a standard  
5 notary fee in the same amount that the clerk receives as a standard notary fee in  
6 connection with issuing a marriage license and that may be retained by the clerk if  
7 the clerk is operating on a fee or part-fee basis but which otherwise shall become part  
8 of the funds of the county.

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

18 (2) A county clerk may provide the name of a declaration of domestic  
19 partnership applicant and, from the portion of the application form that is collected  
20 for statistical purposes, as specified under sub. (1), may provide the address of the  
21 declaration of domestic partnership applicant to a law enforcement officer, as defined  
22 in s. 51.01 (11). A county clerk shall provide the name and, if it is available, the  
23 address, to a law enforcement officer who requests, in writing, the name and address  
24 for the performance of an investigation or the service of a warrant. If a county clerk  
25 has not destroyed the portion of the declaration of domestic partnership application

**ASSEMBLY BILL 721**

1 form that is collected for statistical purposes, he or she shall keep the information  
2 on the portion confidential, except as authorized under this subsection. If a written  
3 request is made by a law enforcement officer under this subsection, the county clerk  
4 shall keep the request with the declaration of domestic partnership application form.  
5 If the county clerk destroys the declaration of domestic partnership application form,  
6 he or she shall also destroy the written request.

7 **770.20 Effect of forming domestic partnership.** Except in ch. 765, all of  
8 the following apply:

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

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

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

20 **SECTION 3. Effective date.**

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

23 (END)