

**FORTY-EIGHTH LEGISLATURE  
FIRST SESSION**

March 16, 2007

Mr. Speaker:

Your **HEALTH AND GOVERNMENT AFFAIRS COMMITTEE**, to whom has been referred

**SENATE FLOOR SUBSTITUTE FOR  
HOUSE BILL 603, as amended**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike Senate Floor Amendment 1.

2. On page 1, strike lines 11 and 12 in their entirety and insert in lieu thereof "RELATING TO DOMESTIC AFFAIRS; ENACTING THE DOMESTIC PARTNER RIGHTS AND RESPONSIBILITIES ACT."

3. On page 1, line 15, through page 7, line 23, strike Sections 1 through 9 in their entirety and insert in lieu thereof:

"Section 1. SHORT TITLE.--This act may be cited as the "Domestic Partner Rights and Responsibilities Act".

Section 2. DEFINITIONS.--As used in the Domestic Partner Rights and Responsibilities Act:

A. "affidavit of domestic partnership" means an affidavit that identifies domestic partners and affirms that both meet the requirements for entering into a domestic partnership

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with each other as provided in the Domestic Partner Rights and Responsibilities Act;

B. "certificate of domestic partnership" means a certificate issued by the county clerk on behalf of the state, certifying the domestic partnership has been registered;

C. "common residence" means a residence shared by registered domestic partners, even if one person temporarily leaves the shared place of residence on either a short-term or long-term basis;

D. "domestic partner" means an adult who has chosen to share in another adult's life in a relationship of mutual caring and support and who has established a domestic partnership;

E. "domestic partnership" means the legal relationship two domestic partners establish with each other, provided the partners:

- (1) share a common residence;
- (2) are, at minimum, at the age of majority;
- (3) are capable of consenting;
- (4) are not married to someone else and are not part of a valid domestic partnership or a civil union recognized in another state; and
- (5) are not related by blood in a way that would prevent marriage under the laws of New Mexico;

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F. "record of domestic partnership" means a permanent record book kept by the county clerk of each county, at the expense of each respective county in the state, for the purpose of properly recording and indexing affidavits and certificates of domestic partnerships and ensuring the affidavits and certificates of domestic partnerships are kept as county records; and

G. "registration fee" means twenty-five dollars (\$25.00) to be paid by the domestic partners to the county clerk at the time of submitting an application for registration of domestic partnership.

Section 3. EQUAL RIGHTS AND RESPONSIBILITIES.--

A. A domestic partner has the same rights, protections, benefits and responsibilities under law as a spouse in a marriage. Definitions in law and rule applicable to marriage, including terms such as "next of kin", "spouse", "immediate family", "dependent", "parent", "step-parent", "children" or other term related to the spousal relationship shall apply equally to a domestic partnership.

B. A domestic partner who dissolves a domestic partnership is subject to the same responsibilities, obligations and duties under law, whether derived from statute, rule, common law or other provisions or sources of law, as those imposed on a spouse who dissolves a marriage. Obligations imposed by law on a spouse in matters such as dissolution of marriage and child support apply equally to a domestic partner.

C. Following the death of a domestic partner, the surviving domestic partner has the same rights, protections and

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benefits and shall be subject to the same responsibilities, obligations and duties under law as those granted to and imposed upon a widow or a widower.

D. The parental rights and obligations of a domestic partner are the same as those of a spouse in a marriage.

E. In laws and policies regarding community property, mutual responsibility for debts to third parties, financial support, property ownership and other duties and obligations, rights and responsibilities of marriage or marital spouses, the date of registration of a domestic partnership with the state is substituted for a date of marriage.

F. The state shall not discriminate against a domestic partner or domestic partnership on the grounds that the partner is not a spouse, a widow or widower or in a marriage.

G. Notwithstanding the provisions of this section, in filing a state income tax return, a domestic partner shall use the same filing status as is used on a federal income tax return, or that would have been used if a federal income tax return had been filed. Earned income shall not be treated as community property for state income tax purposes.

Section 4. JURISDICTION.--The district court has jurisdiction over proceedings relating to domestic partnership, including dissolution, annulment and legal separation, and shall follow the same procedures as are used for spouses in a marriage, except that a dissolution, annulment or legal separation of a domestic partnership registered in this state may be filed in the district courts of this state even if neither domestic partner is a resident of, or maintains a domicile in, the state at the time

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the proceedings are filed. Nothing in this section shall be construed as granting jurisdiction in conflict with the Uniform Child-Custody Jurisdiction and Enforcement Act as adopted in New Mexico.

Section 5. RECOGNITION OF LEGAL UNION.--A legal union other than the marriage of two persons formalized in another jurisdiction but substantially equivalent to a domestic partnership as defined in the Domestic Partner Rights and Responsibilities Act shall be recognized as a valid domestic partnership in this state regardless of whether it bears the name "domestic partnership".

Section 6. AFFIDAVIT REQUIRED--COUNTY CLERK--REGISTRATION FEES.--An adult prepared to form a domestic partnership shall obtain an affidavit of domestic partnership from the secretary of state or a county clerk and file it for recording in the county issuing the certificate of domestic partnership. A county clerk shall receive a registration fee for issuing and recording a certificate of domestic partnership. Fifteen dollars (\$15.00) of each registration fee shall be remitted by the county treasurer to the state treasurer within fifteen days of the last day of each month, for credit to the children's trust fund.

Section 7. ESTABLISHING A DOMESTIC PARTNERSHIP.--

A. A domestic partnership is established when the affidavit of domestic partnership is accepted and the certificate of domestic partnership is issued and recorded. The completed affidavit of domestic partnership shall be accepted by the county clerk, filed and recorded in the record of domestic partnership.

B. To obtain a certificate of domestic partnership,

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prospective domestic partners shall:

(1) submit an application for a certificate of domestic partnership and an affidavit of domestic partnership to a county clerk on a form that conforms with the requirements of the Domestic Partner Rights and Responsibilities Act stating that the domestic partners desire to become domestic partners and:

(a) currently share or will share a common residence immediately upon becoming registered;

(b) have reached the age of majority;

(c) are capable of consenting to the domestic partnership;

(d) are not married to someone else and are not part of a valid domestic partnership or civil union to someone else; and

(e) are not related by blood in a way that would prevent marriage under the laws of New Mexico;

(2) provide a mailing address;

(3) state that they consent to the jurisdiction of the district courts of New Mexico for the purpose of a proceeding related to the domestic partnership even if they are no longer a resident of or domiciled in this state;

(4) sign the form with a declaration that representations made in the form are true, correct and contain no material omission of fact to the best knowledge and belief of the

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applicants;

(5) have a notary public acknowledge the signatures. Both partners' signatures shall be affixed to one affidavit of domestic partnership form, which original affidavit shall then be transmitted or delivered to the county clerk according to the instructions provided on the affidavit; and

(6) pay the required registration fee.

C. The county clerk shall immediately upon receipt of the completed application and affidavit of domestic partnership issue a certificate of domestic partnership, record and index the certificate in the record of domestic partnership as a part of the county records. After recording, the certificate of domestic partnership shall be returned to the domestic partners.

Section 8. MISREPRESENTATION OF DOMESTIC PARTNERSHIP ELIGIBILITY.--Filing an intentionally and materially false declaration of domestic partnership shall be punishable as a misdemeanor.

Section 9. APPLICATION, AFFIDAVIT AND CERTIFICATE OF DOMESTIC PARTNERSHIP--FORMS.--

A. An affidavit of domestic partnership shall be substantially as provided in this section, with each form to be numbered consecutively corresponding with the page number of the record book in the county clerk's office. All such forms shall be provided free of cost by the county.

B. The affidavit form shall be substantially as follows:

.169838.2

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"APPLICATION FOR CERTIFICATE OF DOMESTIC PARTNERSHIP AND  
AFFIDAVIT OF DOMESTIC PARTNERSHIP NO. \_\_\_\_\_  
STATEMENTS RECEIVED AND FILED IN COUNTY CLERK'S OFFICE AT  
\_\_\_\_\_ O'CLOCK \_\_\_\_ .M. ON \_\_\_\_\_, 20 \_\_\_\_.  
COUNTY CLERK, \_\_\_\_\_ COUNTY  
By \_\_\_\_\_ Deputy  
To the county clerk:

We the undersigned hereby make application to be united in a  
domestic partnership and certify that:

We share a common residence or will share one as of the  
date of this affidavit;

Each of us has reached the age of majority;

Each of us is capable of consenting to this domestic  
partnership;

Neither of us is married to someone else or is part of  
another domestic partnership or civil union with someone else  
that has not been terminated, dissolved or adjudged a nullity;

We are not related by blood in a way that would prevent  
marriage under the laws of New Mexico; and

Both persons consent to the jurisdiction of the district  
courts of New Mexico for the purpose of a proceeding related to  
the domestic partnership or to the partners' rights and  
obligations, even if one or both partners ceases to be a resident  
of, or to maintain a domicile in, this state.

The representations here are true and correct and contain no



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material omission of fact to the best of our knowledge and belief.

Applicant 1

Applicant 2

Full Name:

Full Name:

\_\_\_\_\_  
Date of birth:

\_\_\_\_\_  
Date of birth:

\_\_\_\_\_  
Place of birth:

\_\_\_\_\_  
Place of birth:

\_\_\_\_\_  
Present address:

\_\_\_\_\_  
Present address:

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Signature:

State of New Mexico

County of \_\_\_\_\_

On \_\_\_\_\_, before me, Notary Public, personally appeared

\_\_\_\_\_ and \_\_\_\_\_,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Public

[PLACE NOTARY PUBLIC SEAL HERE]

FILE NO: \_\_\_\_\_

This Space For Filing Use Only".

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C. The certificate of domestic partnership form shall be substantially as follows:

"CERTIFICATE OF DOMESTIC PARTNERSHIP

State of New Mexico,

ss.

County of \_\_\_\_\_.

\_\_\_\_\_ of \_\_\_\_\_ and  
Partner 1 Address

\_\_\_\_\_ of \_\_\_\_\_  
Partner 2 Address

are hereby recognized as domestic partners in accordance with the laws of the state of New Mexico and the Domestic Partner Rights and Responsibilities Act.

Recorded this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ M.

Record of Domestic Partnership Book No. \_\_\_\_\_, Page No. \_\_\_\_\_.

\_\_\_\_\_  
County Clerk".

Section 10. LIBERAL CONSTRUCTION.--The Domestic Partner Rights and Responsibilities Act shall be liberally construed to carry out its purpose.

Section 11. SEVERABILITY.--If any part or particular application of the Domestic Partner Rights and Responsibilities Act is held invalid, the remainder of that act or its application to other situations or persons shall not be affected."

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Respectfully submitted,

\_\_\_\_\_  
Mimi Stewart, Chairwoman

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 1 Against  
Yes: 7  
No: Bandy  
Excused: None  
Absent: None