2008 -- H 7711

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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO HUMAN SERVICES - DOMESTIC PARTNERS

Introduced By: Representatives McCauley, Walsh, Ajello, Singleton, and Segal

Date Introduced: February 26, 2008

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1 This act shall be known and may be cited as the "An Act Relating to Compassion for all Families".

SECTION 2. Section 5-33.2-24 of the General Laws in Chapter 5-33.2 entitled "Funeral Director/Embalmer Funeral Service Establishments" is hereby amended to read as follows:

5-33.2-24. Proper authority for funeral arrangements and disposition of human remains. -- Every licensed funeral director/embalmer, licensed funeral establishment, licensed crematory, and cemetery shall comply with the following rules with respect to proper authority for funeral arrangements and disposition of human remains:

(1) If a licensed funeral establishment is a party to a funeral services contract, as defined in section 5-33.1-2, for the benefit of a deceased person, only when executed by the principal, him or herself and the contract is still in effect at the time of that person's death, the terms of that contract shall control the nature of the funeral goods and services to be provided, the manner in which funeral services are to be conducted for the deceased, and the final disposition of the deceased person's remains to the full extent provided in that contract. When the contract is executed by the principal, him or herself, and specifies cremation as the chosen disposition, the contract is considered sufficient legal authorization for cremation. No licensed funeral establishment, licensed crematory, or cemetery nor any of its agents or employees, may cancel or materially alter any of the arrangements specified in that contract, even if requested to do so by a member of the deceased person's family or a funeral planning agent designated pursuant to

chapter 33.3 of this title unless compliance with the terms of the original contract would result in a violation of any applicable federal, state or local law or regulation, notwithstanding the provisions of this chapter.

(2) To the extent that there is no funeral services contract in effect at the time of death for the benefit of the deceased person, indicating the wishes of the deceased person with respect to the nature of the funeral goods and services to be provided, the manner in which funeral services are to be conducted, or the final disposition of the deceased person's remains, then the funeral establishment and its agents or employees shall follow the directions of the deceased person's survivors, in the following order of priority:

(i) An agent designated pursuant to chapter 33.3 of this title, if any;

(ii) The surviving spouse or domestic partner of the deceased;

(iii) The surviving adult children of the deceased;

(iv) The surviving parent(s) of the deceased;

(v) The surviving brother(s) or sister(s) of the deceased;

(vi) The surviving adult grandchildren of the deceased;

(vii) The surviving adult niece(s) or nephew(s) of the deceased;

(viii) The guardian of the person of the deceased at the time of his or her death.

(3) All licensed funeral directors/embalmers, licensed funeral establishments, licensed crematories, cemeteries, and all their agents and employees shall be held harmless, and shall not be subject to civil suit, either as individual(s), partnership(s), or corporation(s) for complying with the provisions of this chapter.

(4) For purpose of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

(i) both partners were at least eighteen (18) years of age and were mentally competent to contract;

(ii) neither partner was married to anyone else;

(iii) partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;

(iv) partners resided together and had resided together for at least one year at the time of death; and

(v) partners were financially interdependent as evidenced by at least two (2) of the following:

(a) domestic partnership agreement or relationship contract;

(b) joint mortgage or joint ownership of primary residence;

(c) two (2) of:

(1) joint ownership of motor vehicle;

(2) joint checking account;

(3) joint credit account;

(4) joint lease; and/or

(d) the domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

SECTION 3. Section 23-17.5-16 of the General Laws in Chapter 23-17.5 entitled "Rights of Nursing Home Patients" is hereby amended to read as follows:

23-17.5-16. ~~Married patient~~ Patient with spouse or domestic partner. – (a) If married or in a relationship with a domestic partner, patients shall be assured privacy for visits by the spouse or domestic partner; if both are inpatients in the facility, they may share a room unless medically contraindicated per written order of the physician and subject to the availability of accommodations within the facility.

(b) For purposes of this section, "domestic partner" shall mean a person who shares an exclusive, intimate and committed relationship of mutual caring with the patient and who certifies by affidavit that the patient and domestic partner:

(i) are a least eighteen (18) years of age and mentally competent to contract;

(ii) are not married to anyone else;

(iii) are not related by blood to a degree which would prohibit marriage in the state of Rhode Island;

(iv) resided together for at least one year prior to the patient's entry into the nursing home; and

(v) are financially interdependent as evidenced by at least two of the following:

(a) domestic partnership agreement or relationship contract;;

(b) joint mortgage or joint ownership of primary residence;

(c) two 2 of:

(1) joint ownership of motor vehicle;

(2) joint checking account;

(3) joint credit account;

(4) joint lease; and/or

(d) the domestic partner has been designated as a beneficiary for the patient's will, retirement contract or life insurance.

SECTION 4. Sections 28-48-1, 28-48-11 and 28-48-12 of the General Laws in Chapter 28-48 entitled "Rhode Island Parental and Family Medical Leave Act" are hereby amended to read as follows:

28-48-1. Definitions. -- As used in this chapter, the following words and terms have the following meanings:

(1) "Director" means the director of the department of labor and training.

(2) "Employee" means any full-time employee who works an average of thirty (30) or more hours per week.

(3) "Employer" means and includes:

(i) any person, sole proprietorship, partnership, corporation, or other business entity that employs fifty (50) or more employees,

(ii) the state of Rhode Island, including the executive, legislative, and judicial branches, and any state department or agency that employs any employees,

(iii) any city or town or municipal agency that employs thirty (30) or more employees, and

(iv) any person who acts directly or indirectly in the interest of any employer.

(4) "Family leave" means leave by reason of the serious illness of a family member.

(5) "Family member" means a parent, spouse, domestic partner, child, child of a domestic partner, mother-in-law, mother of a domestic partner, father-in-law, father of a domestic partner, or the employee himself or herself, and with respect to employees of the state as defined in subsection (3)(ii), shall include domestic partners as defined in section 36-12-1(3).

(6) "Parental leave" means leave by reason of the birth of a child of an employee or the employee's domestic partner, or the placement of a child sixteen (16) years of age or less with an employee or his or her domestic partner in connection with the adoption of the child by the employee or his or her domestic partner.

(7) "Serious illness" means a disabling physical or mental illness, injury, impairment, or condition that involves inpatient care in a hospital, a nursing home, or a hospice, or outpatient care requiring continuing treatment or supervision by a health care provider.

(8) "Domestic partner" means a person who shares and exclusive, intimate and committed relationship of mutual caring with the employee and the employee certifies by affidavit that he or she and his or her domestic partner:

(i) are at least eighteen (18) years of age and mentally competent to contract;

(ii) are not married to anyone else;

(iii) are not related by blood to a degree which would prohibit marriage in the state of

Rhode Island;

(iv) reside together and have resided together for a t least one year; and

(v) are financially interdependent as evidenced by at least two of the following:

(a) domestic partnership agreement or relationship contract;

(b) joint mortgage or joint ownership of primary residence;

(c) two (2) of:

(1) joint ownership of motor vehicle;

(2) joint checking account;

(3) joint credit account;

(4) joint lease; and/or

(d) the domestic partner has been designated as a beneficiary for the employee's will, retirement contract or life insurance.

28-48-11. Use of sick leave for adoptive parents. -- Any employer who allows sick time or sick leave of an employee to be utilized after the birth of a child shall allow the same time to be used for the placement of a child sixteen (16) years of age or less with an employee or his or her domestic partner in connection with the adoption of the child by the employee or his or her domestic partner.

28-48-12. School involvement leave. -- (a) An employee who has been employed by the same employer for twelve (12) consecutive months shall be entitled to a total of ten (10) hours of leave during any twelve (12) month period to attend school conferences or other school-related activities for a child of whom the employee or his or her domestic partner is the parent, foster parent or guardian.

(b) The employee must provide twenty-four (24) hours prior notice of the leave and make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the employer.

(c) Nothing in this section shall be construed to require the leave be paid; except that under this section, an employee may substitute any accrued paid vacation leave or other appropriate paid leave for any part of the leave.

SECTION 5. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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This act would recognize domestic partners and would clearly define, the class of persons covered by the parental and family medical leave act. In addition, it would recognize the rights of domestic partners for purpose of funeral arrangement planning and nursing home accommodations.

This act would take effect upon passage.

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