



SPONSOR: Rep. Cloutier

HOUSE OF REPRESENTATIVES

138TH GENERAL ASSEMBLY

HOUSE BILL NO 578 MAY 14 1996

AN ACT TO AMEND TITLE 13, DELAWARE CODE, RELATING TO DOMESTIC PARTNERSHIPS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (three-fifths of all members elected to each house thereof concurring therein):

1 Section 1. Amend Title 13, Delaware Code, by adding a new chapter to read as
2 follows:

3 "CHAPTER 2. DOMESTIC PARTNERSHIPS ACT.

4 § 201. Purpose.

5 The purpose of this chapter is to create a way to recognize committed
6 relationships of people of the same sex and the right to identify the partners with
7 whom they share their lives.

8 § 202. Findings.

9 Domestic partners live together in the context of a committed relationship.
10 However, they are often denied certain benefits, because they cannot provide state-
11 certified proof of their relationship.

12 § 203. Definitions.

13 For the purposes of this chapter:

14 'Basic living expenses' means basic food and shelter. It does not include
15 any other cost, such as medical care, whether or not some or all of the cost is paid
16 as a benefit to one or both partners because they have registered as domestic
17 partners under this section.

18 'Declaration of domestic partnership' means a statement in a form prepared
19 by the Secretary of State and issued by a Clerk of the Peace of any county that
20 declares the intent of two people of the same sex to enter into a valid domestic
21 partnership contract. By signing it, two people swear under penalty of perjury that
22 they meet the requirements for a valid domestic partnership contract.

23 'Domestic partners' means two adults of the same sex who are parties to a
24 valid domestic partnership contract and meet the requisites for a valid domestic
25 partnership contract as defined in section 204.

26 'Joint responsibility' means that each partner agrees to provide for the
27 other's basic living expenses while the domestic partnership is in effect if the
28 partner is unable to provide for himself or herself. It does not mean that the
29 partners need contribute equally or jointly to basic living expenses. Anyone to
30 whom these expenses are owed can enforce the responsibility established by this
31 chapter.

32 'Live together' means that two people of the same sex share the same place
33 to live. It is not necessary that the legal right to possess the place be in both of
34 their names. Two people may live together even if one or both have additional
35 places to live. Domestic partners do not cease to live together if one leaves the
36 shared place but intends to return.

37 § 204. Requisites of a valid domestic partnership contract.

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

- 40 (1) Be of the same sex, male or female;
- 41 (2) Live together;
- 42 (3) Consider themselves to be members of each other's immediate family;
- 43 (4) Agree to be jointly responsible for each other's basic living expenses;
- 44 (5) Neither be married nor a member of another domestic partnership;
- 45 (6) Not be related by blood in a way that would prevent them from being
46 married to each other under Chapter 1 of this Title;
- 47 (7) Each be at least eighteen years old;

48 (8) Each be competent to enter into a contract, and

49 (9) Each sign a declaration of domestic partnership as provided for in
50 section 205.

51 § 205. Establishing a domestic partnership.

52 Two persons, who meet the criteria set out in Section 204, may establish a
53 domestic partnership by presenting a signed notarized declaration of domestic
54 partnership to a Clerk of the Peace or other official authorized to solemnize
55 marriages under this Title, who shall file it and give the partners a certificate of
56 domestic partnership showing that the declaration was filed in the names of the
57 parties who shall be known as 'domestic partners'.

58 § 206. Rights and obligations.

59 Upon the issuance of a certificate of domestic partnership, the parties
60 named in the certificate shall have only the enumerated rights and obligations
61 granted under this Chapter.

62 (A) Visitation Rights in health care facilities.

63 All health care facilities, including but not limited to hospitals,
64 convalescent facilities or other long term care facilities, shall allow the
65 domestic partner of a patient to visit the patient under any circumstances in
66 which members of the patient's immediate family are permitted to visit.

67 (B) Visitation rights in prisons.

68 All prisons within the State of Delaware shall allow the domestic
69 partner of an inmate to visit the inmate unless:

70 (1) no visitors are allowed, or

71 (2) the authority in charge of the prison decides that the particular
72 domestic partner of an inmate is a threat to the security of the facility.

73 § 207. Jurisdiction; Dissolution of domestic partnerships.

74 Superior Court shall have jurisdiction over any domestic partnership
75 dispute and over the dissolution of domestic partnerships. The dissolution of
76 domestic partnerships shall follow the same procedures and be subject to the same

77 substantive rights and obligations that are involved in the dissolution of other civil
78 contracts.

79 § 208. Records and fees.

80 The Clerk of the Peace shall keep a record of all declarations. The
81 governing body of each county shall set the amount of the filing fee, but in no case
82 shall the fee be more than \$20.

83 § 209. Preemption.

84 This chapter shall supersede any state law or political subdivision ordinance
85 to the contrary.

86 § 210. Private solemnization not required.

87 Nothing in this chapter shall be construed to require any religious
88 organization to solemnize a domestic partnership that does not recognize a
89 domestic partner relationship within their ideology; provided that any rights and
90 obligations of domestic partners are not obstructed or violated."

91 Section 2. If any provision of this Act, or the application thereof to any person or
92 circumstance is held invalid, the invalidity does not affect other provisions or applications
93 of the Act which can be given effect without the invalid provision or application, and to
94 this end the provisions of this Act are severable.

SYNOPSIS

This Bill establishes domestic partnerships between persons of the same sex.