

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

HOUSE BILL 1934

4  
5 By: Representative Lendall  
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7

## For An Act To Be Entitled

8  
9 "AN ACT TO PROVIDE COVERAGE UNDER A HEALTH BENEFIT  
10 PLAN FOR A PERSON WHO IS REGISTERED AS A DOMESTIC  
11 PARTNER UNDER THIS ACT; AND FOR OTHER PURPOSES."

## Subtitle

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14 "AN ACT TO PROVIDE COVERAGE UNDER A  
15 HEALTH BENEFIT PLAN FOR A PERSON WHO IS  
16 REGISTERED AS A DOMESTIC PARTNER UNDER  
17 THIS ACT."  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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### SECTION 1. Definitions.

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23 For the purposes of this act:

24 (1) "Basic living expenses" means basic food and shelter and any other  
25 cost, such as medical care, if some or all of the cost is paid as a benefit  
26 because a person is another person's domestic partner;

27 (2) "Domestic partner" means an adult individual who has chosen to share  
28 in another adult individual's life in a committed relationship of mutual  
29 caring and who has filed a Declaration of Domestic Partnership pursuant to  
30 this act;

31 (3) "Health benefit plan" means any individual, blanket, or group plan,  
32 policy, or contract for health care services issued or delivered by a health  
33 care insurer in this state, including indemnity and managed care plans, and  
34 including governmental plans as defined in 29 U.S.C. § 1002(32), but excluding  
35 plans providing health care services pursuant to Arkansas Constitution,  
36 Article 5, Section 32, as amended, the Workers' Compensation Law, beginning at

1 Arkansas Code 11-9-101, and the Public Employees Workers' Compensation Act,  
 2 beginning at Arkansas Code 21-5-601;

3 (4) "Joint responsibility" means that each partner agrees in writing to  
 4 provide for the other partner's basic living expenses if the partner is unable  
 5 to provide for herself or himself. Anyone to whom these expenses are owed can  
 6 enforce this responsibility;

7 (5) "Share the same regular and permanent primary residence" means that  
 8 two (2) people are cohabitants but it is not necessary that the legal right to  
 9 possess the common primary residence be in both of their names; and

10 (6) "Subscriber" means the person who contracts for coverage under a  
 11 health benefit plan.

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 13 SECTION 2. (a)(1) Any health benefit plan that provides coverage for  
 14 the spouse of a person shall provide coverage for the domestic partner of a  
 15 person under the same terms and conditions as for a spouse.

16 (2) Any employer who makes available to his employees any health  
 17 benefits that provide coverage for a spouse, shall make available the same  
 18 health benefits for a domestic partner of the employee.

19 (b) If a domestic partnership terminates, the employee or subscriber  
 20 cannot have another domestic partner added to coverage until six (6) months  
 21 after the termination of the previous domestic partnership, unless the  
 22 previous domestic partnership ended because the domestic partner died.

23 (c) A subscriber with coverage for a domestic partner shall agree in  
 24 writing to do the following:

25 (1) Provide, upon request by the employer or health benefit plan,  
 26 an affidavit signed under penalty of perjury by both domestic partners  
 27 certifying that they meet the criteria for domestic partners set forth in this  
 28 act; and

29 (2) File with the employer or health benefit plan a notice of  
 30 termination of the domestic partnership within thirty (30) days of its  
 31 termination.

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 33 SECTION 3. Eligibility to create domestic partnership.

34 For a domestic partnership to be established the following requirements  
 35 must be met:

36 (1) Both persons are at least forty-five (45) years of age and

1 have chosen to share in each other's life in a committed relationship of  
2 mutual caring;

3 (2) Both persons certify in writing that they share the same  
4 regular and permanent primary residence and have shared a common residence for  
5 the previous six (6) months;

6 (3) Both persons agree in writing to be jointly responsible for  
7 each other's basic living expenses during the domestic partnership;

8 (4) Neither person is married or a member of another domestic  
9 partnership, nor has been married or a member of another domestic partnership  
10 during the preceding six (6) months, unless such marriage or domestic  
11 partnership terminated due to the death of a spouse or domestic partner;

12 (5) Both persons register as a domestic partnership with  
13 Secretary of State or the county clerk of the county in which both persons  
14 reside.

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16 SECTION 4. Registration of Domestic Partnerships.

17 (a)(1) The Secretary of State shall prepare forms entitled "Declaration  
18 of Domestic Partnership" and "Notice of Termination of Domestic Partnership"  
19 to meet the requirements of this act. The forms shall require the signature  
20 and seal of an acknowledgment by a notary public to be binding and valid.

21 (2) The Secretary of State shall distribute these forms to each  
22 county clerk. These forms shall be available to the public at the office of  
23 the Secretary of State and each county clerk.

24 (3) The Secretary of State shall, by regulation, establish fees  
25 for the actual costs of processing each of these forms, and shall charge these  
26 fees to persons filing the forms.

27 (b) The Declaration of Domestic Partnership shall require each person  
28 who wants to become a domestic partner to:

29 (1) State that he or she meets the requirements of this act at  
30 the time the form is signed;

31 (2) Provide a mailing address;

32 (3) Sign the form under penalty of perjury; and

33 (4) Have a notary public notarize his or her signature.

34 (c)(1) Two (2) persons desiring to become domestic partners may  
35 complete and file a Declaration of Domestic Partnership with the Secretary of  
36 State.

1           (2) No person who has filed a Declaration of Domestic Partnership  
2 may file a new Declaration of Domestic Partnership until at least six (6)  
3 months after the date that a Notice of Termination of Domestic partnership was  
4 filed with the Secretary of State in connection with the termination of the  
5 most recent domestic partnership. This prohibition does not apply if the  
6 previous domestic partnership ended because one of the partners died.

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8           SECTION 5. Termination of Domestic Partnerships.

9           (a) A domestic partnership is terminated when any one of the following  
10 occurs:

11           (1) One (1) partner gives or sends to the other partner a written  
12 notice that he or she is terminating the partnership;

13           (2) One (1) of the domestic partners dies;

14           (3) One (1) of the domestic partners marries; or

15           (4) The domestic partners no longer have a common residence.

16           (b) Upon termination of a domestic partnership, at least one (1) former  
17 partner shall file a Notice of Termination of Domestic Partnership with the  
18 Secretary of State. The partner who files the Notice of Termination of  
19 Domestic Partnership shall send a copy of the notice to the last known address  
20 of the other partner.

21           (c) A former domestic partner who has given a copy of a Declaration of  
22 Domestic Partnership to any third party in order to qualify for any benefit or  
23 right shall, within sixty (60) days of termination of the domestic  
24 partnership, give or send to the third party, at the last known address of the  
25 third party, written notification that the domestic partnership has been  
26 terminated. A third party who suffers a loss as a result of failure by the  
27 domestic partner to send this notice shall be entitled to seek recovery from  
28 the partner who was obligated to send it for any actual loss resulting  
29 thereby.

30           (d) Failure to file the Notice of Termination of Domestic Partnership  
31 required in subsection (b) or to provide the third party notice required in  
32 subsection (c) shall not delay or prevent the termination of the domestic  
33 partnership.

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35           SECTION 6. Legal effect of Domestic Partnership.

36           (a) The obligations that two (2) people have to each other as a result

1 of creating a domestic partnership are those described by this act.  
 2 Registration as a domestic partner under this act shall not be evidence of, or  
 3 establish, any rights existing under law other than those expressly provided  
 4 to domestic partners in this act.

5 (b) In order to receive any benefit provided for by this act, an  
 6 employee or subscriber and his or her domestic partner shall complete, have  
 7 notarized, and file on a form designated by the board, a certificate of  
 8 eligibility.

9 (c) The form shall also include a signed statement indicating that the  
 10 employee or subscriber agrees that he or she may be required to reimburse the  
 11 employer, their designated health benefit plan, and the system, for any  
 12 expenditures made by the employer, their designated health benefit plan, and  
 13 the system, for medical claims, processing fees, administrative charges,  
 14 costs, and attorney's fees on behalf of the domestic partner if any of the  
 15 submitted documentation is found to be incomplete, inaccurate, or fraudulent.

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 17 SECTION 7. All provisions of this act of a general and permanent nature  
 18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 19 Revision Commission shall incorporate the same in the Code.

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 21 SECTION 8. If any provision of this act or the application thereof to  
 22 any person or circumstance is held invalid, such invalidity shall not affect  
 23 other provisions or applications of the act which can be given effect without  
 24 the invalid provision or application, and to this end the provisions of this  
 25 act are declared to be severable.

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 27 SECTION 9. All laws and parts of laws in conflict with this act are  
 28 hereby repealed.

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