

State of Arkansas

83rd General Assembly

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A Bill

HOUSE BILL 1301

By: Representative Lendall

For An Act To Be Entitled

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

Subtitle

AN ACT TO PROVIDE COVERAGE UNDER A
HEALTH BENEFIT PLAN FOR A PERSON WHO IS
REGISTERED AS A DOMESTIC PARTNER UNDER
THIS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Definitions.

For purposes of this act:

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

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

(3) "Health benefit plan" means any individual, blanket, or group plan, policy, or contract for health care services issued or delivered by a health care insurer in this state, including indemnity and managed care plans, and including governmental plans as defined in 29 U.S.C. § 1002(32), but excluding plans providing health care services pursuant to Arkansas Constitution,

Article 5, Section 32, as amended, the Workers' Compensation Law, beginning at Arkansas Code 11-9-101, and the Public Employees Workers' Compensation Act, beginning at Arkansas Code 21-5-601;

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

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

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

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

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

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

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

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

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

SECTION 3. Eligibility to create domestic partnership.

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

(1) Both persons are at least forty-five (45) years of age and have chosen to share in each other's life in a committed relationship of mutual caring;

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

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

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

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

SECTION 4. Registration of Domestic Partnerships.

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

(2)(A) The Secretary of State shall distribute these forms to each county clerk.

(B) These forms shall be available to the public at the office of the Secretary of State and each county clerk.

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

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

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

(2) Provide a mailing address;

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

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

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

(2)(A) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of Domestic Partnership until at least six (6) months after the date that a Notice of Termination of Domestic Partnership was filed with the Secretary of State in connection with the termination of the most recent domestic partnership.

(B) This prohibition does not apply if the previous domestic partnership ended because one of the partners died.

SECTION 5. Termination of Domestic Partnerships.

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

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

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

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

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

(b)(1) Upon termination of a domestic partnership, at least one (1) former partner shall file a Notice of Termination of Domestic Partnership with the Secretary of State.

(2) The partner who files the Notice of Termination of Domestic Partnership shall send a copy of the notice to the last known address of the other partner.

(c)(1) A former domestic partner who has given a copy of a Declaration of Domestic Partnership to any third party in order to qualify for any benefit or right shall, within sixty (60) days of termination of the domestic partnership, give or send to the third party, at the last known address of the third party, written notification that the domestic partnership has been terminated.

(2) A third party who suffers a loss as a result of failure by the domestic partner to send this notice shall be entitled to seek recovery from the partner who was obligated to send it for any actual loss resulting from that failure.

(d) Failure to file the Notice of Termination of Domestic Partnership

1 required in subsection (b) or to provide the third party notice required in
2 subsection (c) shall not delay or prevent the termination of the domestic
3 partnership.

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5 SECTION 6. Legal effect of Domestic Partnership.

6 (a)(1) The obligations that two (2) people have to each other as a
7 result of creating a domestic partnership are those described by this
8 subchapter.

9 (2) Registration as a domestic partner under this subchapter
10 shall not be evidence of, or establish, any rights existing under law other
11 than those expressly provided to domestic partners in this subchapter.

12 (b) In order to receive any benefit provided for by this subchapter, an
13 employee or subscriber and his or her domestic partner shall complete, have
14 notarized, and file on a form designated by the board, a certificate of
15 eligibility.

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