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Article VI of this chapter may be cited as the "Broward County Domestic Partnership Act of 1999."

(Ord. No. 1999-03, § 1, 1-26-99)

Sec. 16½-151. - Findings; construction.

- (a) The Broward County Board of County Commissioners finds that there are many individuals who establish and maintain a significant personal, emotional, and economic relationship with another individual. Individuals forming such domestic partnerships often live in a committed family relationship. Domestic partners are often denied public and private sector benefits because there is no established system for such relationships to be registered and/or recognized. In addition, because of the status of their relationship, domestic partners in many cases are not extended certain employment benefits that are otherwise made available to other employees.
- (b) The Broward County Board of County Commissioners finds that employment benefits form an essential portion of the compensation provided to employees. In fact, the U.S. Census Bureau has estimated that over 30 percent of all compensation paid to employees is provided in the form of benefits. The importance of benefits to employees has been underscored by a 1994 Employee Benefit Research which survey found that 67 percent of employees would prefer to return a portion of their cash salary rather than any portion of their benefit program.
- (c) The Broward County Board of County Commissioners acknowledges that in 1994 over 3 million Americans identified themselves as living in a domestic partnership. As a result, employers have begun to provide domestic partner benefits in greater numbers.
- (d) The Broward County Board of County Commissioners finds that the provision of domestic partner benefits promotes employee recruitment, employee retention, and employee loyalty. Furthermore, the provision of such benefits promotes fairness and serves to address the discriminatory effect of practices which deny such benefits solely upon the basis of an employee's familial or marital status.
- (e) The provisions of this act shall be liberally construed to promote the public safety, health, and general welfare of the residents of Broward County and to further the general policies and purposes stated in this act. However, this act shall not be construed to supersede any federal, or state, or county laws or regulations, nor shall this act be interpreted in a manner as to bring it into conflict with federal, or state, or county laws. The rules developed to implement the provisions of this act shall be liberally construed to accomplish the policies and purposes stated in this act.

(Ord. No. 1999-03, § 2, 1-26-99; Ord. No. 1999-18, § 1, 4-27-99)

Sec. 16½-152. - Definitions.

For purposes of this Act:

- (a) *Business* means any corporation, partnership, sole proprietorship, firm, joint stock company, joint venture, or other private legal entity, except governmental entities, not-for-profit corporations, or charitable organizations.
- (b) *Competitive solicitation* means any bid, request for proposal, request for letters of interest, or any other method of procurement utilized by Broward County.
- (c) *Contract* means all types of binding agreements between Broward County and a Contractor for goods or services valued at over \$100,000.
- (d) *Contractor* means any business that has five (5) or more employees and is awarded one or more contracts by

Broward County.

- (e) *County employee* means active or retired employees of Broward County, Florida, who are eligible for benefits pursuant to federal, state, or county laws, county administrative rules, or collective bargaining agreements.
- (f) *Declaration of Domestic Partnership* means a sworn form under penalty of perjury, which certifies that said individuals meet the requirements of a domestic partnership relationship as described in section 16½-153.
- (g) *Domestic Partners* means only two adults who are parties to a valid domestic partnership relationship and who meet the requisites for a valid domestic partnership relationship as established pursuant to section 16½-153.
- (h) *Dependent*, as used with regard to domestic partnership benefits, pursuant to section 16½-156, means the domestic partner of a County employee.

Any determination relating to whether a person identified above qualifies as a dependent of the County employee shall be based solely on whether such person is supported, in whole or in part, by the County employee's earnings and relies on such support. Dependency is not determined by whether the dependent could support himself or herself without the County employee's earnings or whether the dependent could so reduce his or her expenses such that he or she could live independently of the County employee's earnings. Dependency is not determined by whether the dependent is employed or earns a substantial part of his or her own support.

- (i) *Dependent of domestic partner or dependent of employee*, as used with regard to domestic partnership benefits, pursuant to section 16½-156, means a person who is eligible for coverage under the County's insurance plans.
- (j) *Jointly Responsible* means each domestic partner mutually agrees to provide for the other partner's basic food and shelter living expenses while the domestic partnership relationship is in effect, except that partners need not contribute equally or jointly to said basic food and shelter.

(Ord. No. 1999-03, § 3, 1-26-99; Ord. No. 1999-18, § 2, 4-27-99; Ord. No. 2011-26, § 1, 11-8-11)

Sec. 16½-153. - Registration of a domestic partnership relationship.

- (a) A valid domestic partnership relationship may be registered by two persons, who are domiciled in Broward County or are, otherwise, subject to the provisions of this article, by filing a declaration of domestic partnership with the Broward County Records, Taxes, and Treasury Division, which declaration shall comply with all requirements for establishing such domestic partnership. Upon payment of any required fees, the county clerk shall file the declaration of domestic partnership and issue a certificate reflecting the registration of the domestic partnership relationship in Broward County.
- (b) A declaration of domestic partnership shall contain the name and address of each domestic partner, the signature of each partner, and each partner shall swear or affirm under penalty of perjury that:
 - (1) Each person is at least 18 years old and competent to contract;
 - (2) Neither person is married nor a partner to another domestic partnership relationship;
 - (3) They are not related by blood;
 - (4) Consent of either person to the domestic partnership relationship has not been obtained by force, duress, or fraud; and
 - (5) Each person agrees to be jointly responsible for each other's basic food and shelter.
- (c) Any partner to a domestic partnership may file an amendment to the domestic partnership certificate issued by the County Records, Taxes, and Treasury Division to reflect a change in his or her legal name.
- (d) No person who has entered into a domestic partnership relationship may enter into a new domestic partnership until 30 days after the termination of a previous domestic partnership relationship.

(Ord. No. 1999-03, § 4, 1-26-99; Ord. No. 1999-18, § 3, 4-27-99; Ord. No. 2010-10, § 13, 2-23-10)

Sec. 16½-154. - Termination of registered domestic partnership relationship.

- (a) Either partner to a registered domestic partnership relationship may terminate such relationship by filing a notarized declaration of termination of domestic partnership relationship with the County Records, Taxes, and Treasury Division. Upon the payment of the required fee, the county clerk shall file the declaration and issue a certificate of termination of domestic partnership relationship to each partner of the former relationship. The termination shall become effective thirty (30) days from the date the certificate of termination is issued.
- (b) If any partner to a domestic partnership relationship enters into a legal marriage, the domestic partnership relationship shall terminate automatically, and all rights, benefits, and entitlements thereunder shall cease as of the effective date of the marriage. The marrying domestic partner shall file a declaration terminating the domestic partnership relationship within 10 days after entering into a legal marriage.
- (c) The death of either domestic partner shall automatically terminate the domestic partnership relationship.

(Ord. No. 1999-03, § 5, 1-26-99; Ord. No. 1999-18, § 4, 4-27-99; Ord. No. 2010-10, § 13, 2-23-10)

Sec. 16½-155. - Maintenance of records; filing fees.

- (a) The Broward County Records, Taxes, and Treasury Division shall, by administrative rule, prescribe the form of all declarations, amendments, and certificates required to be filed under this act. The Records, Taxes, and Treasury Division shall maintain a record of all declarations, amendments, and certificates filed pursuant to this act. The records shall be maintained so that all declarations, amendments, and certificates shall be filed with the registered domestic partnership to which they apply.
- (b) Filing Fees. The County Administrator is authorized to establish fees for the filing of any declarations, amendments, and the issuance of any certificates required by this act, subject to the approval of the County Commission. The fees shall be included within the Broward County Administrative Code. Any fees established under this section shall be sufficient to cover costs of administering the provisions of this article.

(Ord. No. 1999-03, § 6, 1-26-99; Ord. No. 1999-18, § 5, 4-27-99; Ord. No. 2010-10, § 13, 2-23-10)

Sec. 16½-156. - County employees; extension of benefits.

- (a) Any County employee who is a party to a registered domestic partnership relationship, pursuant to section 16½-153 of this act, shall be entitled to elect insurance coverage for his or her domestic partner or a dependent of such domestic partner on the same basis in which any County employee may elect insurance coverage for his or her spouse or dependents. A County employee's right to elect insurance coverage for his or her domestic partner, or the partner's dependent, shall extend to all forms of insurance provided by the County to the spouses and dependents of County employees, unless such coverage is prohibited by state or federal law. All elections of coverage shall be made in accordance with the requirements of applicable county ordinances, administrative rules, and county policies. However, in no event shall an employee make an election for coverage of a domestic partner more than two times in a plan year.
- (b) Any County employee who is a party to a registered domestic partnership relationship, pursuant to section 16½-153 of this act, shall be entitled to use all forms of leave provided by the County including, but not limited to, sick leave, annual leave, family illness leave and bereavement leave to care for his or her domestic partner or the dependent of the domestic partner as applicable. The use of leave authorized in this section shall be consistent with the applicable requirements in county ordinances, administrative rules, and county policies.
- (c) Unless prohibited by state or federal law, all other benefits available to the spouses and dependents of County employees shall be made available on the same basis to the domestic partner, or dependent of such domestic partner, of a County employee who is a party to a registered domestic partnership relationship pursuant to section 16½-153 of this act.
- (d) The County Administrator is authorized to take all actions necessary to implement the provisions of this section by no later than January 1, 2000.

(Ord. No. 1999-03, § 8, 1-26-99; Ord. No. 1999-18, § 7, 4-27-99)

Sec. 16½-157. - County contractors providing equal benefits for domestic partners.

- (a) *Contractor Offering Benefits.* Except where federal or state law mandates to the contrary, a Contractor awarded a Contract pursuant to a competitive solicitation shall provide benefits to Domestic Partners of its employees on the same basis as it provides benefits to employees' spouses. Benefits include the types of benefits described in section 16½-156 of this Act.
- (b) *Certification of Contractor.* As part of the competitive solicitation and procurement process a Contractor seeking a Contract covered by paragraph (a) above shall certify that upon award of a Contract it will provide benefits to Domestic Partners of its employees on the same basis as it provides benefits to employees' spouses. The certification shall be in writing and signed by an authorized officer of the Contractor. Failure to provide such certification shall result in a Contractor being deemed non-responsive.
- (c) *Exceptions to Contractor Offering Benefits.* The provisions of this section shall not apply where:
 - (1) The Contractor does not provide benefits to employees' spouses;
 - (2) The Contractor provides an employee the cash equivalent of benefits because the Contractor is unable to provide benefits to employees' Domestic Partners despite making reasonable efforts to provide them. To meet this exception, the Contractor shall provide a notarized affidavit that it has made reasonable efforts to provide such benefits. The affidavit shall state the efforts taken to provide such benefits and the amount of the cash equivalent. Cash equivalent means the amount of money paid to an employee with a Domestic Partner rather than providing benefits to the employee's Domestic Partner. The cash equivalent is equal to the employer's direct expense of providing benefits to an employee's spouse;
 - (3) The Contractor is a religious organization, association, society, or any non-profit charitable or educational institution or organization operated supervised or controlled by or in conjunction with a religious organization, association, or society;
 - (4) The Contractor is a governmental agency;
 - (5) More than one response to a competitive solicitation is received, but the responses indicates that none of the prospective vendors can comply with the requirements of this section;
 - (6) The provisions of this section would violate the laws, rules, or regulations of federal or state law (for example, section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act);
 - (7) The provisions of this section would violate or be inconsistent with the terms or conditions of a grant or contract with the United States or the State of Florida; or
 - (8) The Board waives the requirements of this section in the best interests of the County.
- (d) *Contracts.* Every Contract, unless otherwise exempt from this section, shall contain language that obligates the Contractor to comply with the applicable provisions of this section. The Contract shall include provisions for the following:
 - (i) The Contractor certifies and represents that it will comply with this section during the entire term of the Contract.
 - (ii) The failure of the Contractor to comply with this section shall be deemed to be a material breach of the contract, entitling the County to pursue any remedy stated below or any remedy provided under applicable law.
 - (iii) The County may terminate the Contract if the Contractor fails to comply with this section.
 - (iv) The County may retain all monies due or to become due until the Contractor complies with this section.
 - (v) The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in [Chapter 21](#) of the Broward County Administrative Code.
- (e) *Applicable Dates.* This section shall be applicable to Contracts awarded pursuant to competitive solicitations issued after the effective date of this ordinance.

(Ord. No. 1999-03, § 9, 1-26-99; Ord. No. 1999-18, § 8, 4-27-99; 2011-26, § 2, 11-8-11)

Sec. 16½-158. - Visitation to licensed facilities.

If a health care facility or any licensed residential facility restricts the visitors of a patient or resident, the facility shall permit the patient or resident to name those individuals whom he or she wishes to visit, including any domestic partner, or any children or family member of such domestic partner, unless:

- (1) No visitors are allowed; or
 - (2) The facility, in its sole discretion, decides that the presence of a particular individual named by the patient or resident would endanger the health or safety of a patient or a resident, or would endanger the primary operations of the facility.
- (b) If a patient or resident has not made the designation provided for in paragraph (a), the facility shall permit the patient or resident's domestic partner, the children of the domestic partner, and any other family member of the patient or resident's domestic partner, to visit, unless one of the exceptions described in paragraph (a)(1) or (a)(2) applies.
- (c) A domestic partner of a patient or resident shall have the same rights as would a spouse or other family member with respect to visitation, and the making of health care decisions for the patient or resident, to the extent that a patient or resident has not executed a valid power of attorney for health care or a health care surrogate designation.

(Ord. No. 1999-03, § 10, 1-26-99; Ord. No. 1999-18, § 9, 4-27-99)

Case law annotation—Subsection (c) of section 16½-158 of the Broward County Code has been found to be invalid and severable by the Florida Fourth District Court of Appeal in the case of *Lowe v. Broward County*, 766 So. 2d 1199 (Fla. 4th DCA 2000).

Sec. 16½-159. - Health care surrogate designation.

Any person who is a party to a registered domestic partnership relationship, pursuant to section 16½-153 of this act, shall have the same right as any other individual to be designated as health care surrogate of his or her domestic partner pursuant to Chapter 765, pt. II, F.S. (§ 765.201, F.S. et seq.) and a person so designated shall have the right to make health care decisions on behalf of his or her domestic partner; to provide, withhold, or withdraw consent on behalf of his or her domestic partner; to apply for public benefits to defray the cost of health care; and to authorize the admission to, or transfer from, a health care facility. No person designated as a health care surrogate shall be denied or otherwise be defeated in serving as a health care surrogate based solely upon his or her status as the domestic partner of the partner on whose behalf health care decisions are to be made.

(Ord. No. 1999-03, § 11, 1-26-99; Ord. No. 1999-18, § 10, 4-27-99)

Sec. 16½-160. - Preneed guardian designation.

Any person who is a party to a registered domestic partnership relationship, pursuant to section 16½-153 of this act, shall have the same right as any other individual to be designated as a preneed guardian pursuant to § 744.3045, F.S. and to serve in such capacity in the event of his or her declarant domestic partner's incapacity. A domestic partner shall not be denied or otherwise be defeated in serving as the plenary guardian of his or her domestic partner or the partner's property, under the provisions of Chapter 744, F.S. to the extent that the incapacitated partner has not executed a valid preneed guardian designation, based solely upon his or her status as the domestic partner of the incapacitated partner.

(Ord. No. 1999-03, § 12, 1-26-99; Ord. No. 1999-18, § 11, 4-27-99)

Sec. 16½-161. - Visitation rights at county correctional and juvenile detention facilities.

Any person who is a party to a registered domestic partnership relationship, pursuant to section 16½-153 of this act, shall be entitled to visit his or her domestic partner, or other family member of the domestic partner, who is an inmate at a county correctional facility or a juvenile detention facility, upon the same terms and conditions under which visitation is afforded to spouses, children, or parents of inmates. Visitation rights provided by this section shall extend to any children of the domestic partners, and the domestic partners of an inmate's parents or children.

(Ord. No. 1999-03, § 13, 1-26-99; Ord. No. 1999-18, § 12, 4-27-99)

Sec. 16½-162. - Notification of family members.

In any situation providing for mandatory or permissible notification of family members, including notification of family members in an emergency, or when permission is granted to inmates to contact family members, "notification of family" shall include domestic partners.

(Ord. No. 1999-03, § 14, 1-26-99; Ord. No. 1999-18, § 13, 4-27-99)

FOOTNOTE(S):

⁽¹²⁸⁾ **Editor's note**— Ord. No. 2002-20, § 53, adopted May 28, 2002, renumbered from Art. VI as Art. VIII. ([Back](#))