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SENATE BILL 576

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO DOMESTIC AFFAIRS; ENACTING THE DOMESTIC PARTNER  
RIGHTS AND RESPONSIBILITIES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Domestic Partner Rights and Responsibilities Act".

Section 2. DEFINITIONS.--As used in the Domestic Partner  
Rights and Responsibilities Act:

A. "common residence" means a residence shared by  
licensed domestic partners;

B. "domestic partner" means an adult who has chosen  
to share in another adult's life in an intimate and committed  
relationship of mutual caring and who has established a  
domestic partnership; and

C. "domestic partnership" means the legal

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1 relationship two domestic partners establish with each other.

2 Section 3. EQUAL PROTECTION AND EQUAL OBLIGATION. --

3 A. Domestic partners have the same rights,  
4 protections and benefits under law, whether derived from  
5 statute, rule, common law or other provisions or sources of  
6 law, as spouses in a marriage. Definitions in law and rule  
7 applicable to marriage, including terms such as "next of kin",  
8 apply equally to a domestic partnership.

9 B. Domestic partners are subject to the same  
10 responsibilities, obligations and duties under law, whether  
11 derived from statute, rule, common law or other provisions or  
12 sources of law, as those imposed for spouses in a marriage.  
13 Obligations imposed by law on spouses in a marriage for the  
14 matters, including dissolution of marriage and child support,  
15 apply equally to domestic partners.

16 C. Following the death of a domestic partner, the  
17 surviving partner has the same rights, protections and benefits  
18 and shall be subject to the same responsibilities, obligations  
19 and duties under law, whether derived from statute, rule,  
20 common law or other provisions or sources of law, as those  
21 granted to and imposed upon a widow or a widower.

22 D. The parental rights and obligations of a  
23 domestic partner are the same as those of a spouse in a  
24 marriage. The rights and obligations of a former or surviving  
25 domestic partner with respect to a child of either domestic

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1 partner are the same as those of a former or surviving spouse.

2 E. The state shall not discriminate against any  
3 domestic partner or domestic partnership on the grounds that  
4 the partner is not a spouse, a widow or widower or in a  
5 marriage.

6 F. Notwithstanding the provisions of this section,  
7 in filing state income tax returns, a domestic partner shall  
8 use the same filing status as is used on a federal income tax  
9 return, or that would have been used if a federal income tax  
10 return had been filed. Earned income shall not be treated as  
11 community property for state income tax purposes.

12 Section 4. JURISDICTION.--The district court has  
13 jurisdiction over proceedings relating to the dissolution of a  
14 domestic partnership, nullity of a domestic partnership and  
15 legal separation of a domestic partner. The dissolution,  
16 nullification and legal separation shall follow the same  
17 procedures as are used for spouses in a marriage.

18 Section 5. LICENSE REQUIRED-- COUNTY CLERK-- FEES.--Adults  
19 prepared to form a domestic partnership shall obtain a domestic  
20 partnership license from a county clerk and file it for  
21 recording in the county issuing the license. A county clerk  
22 shall receive a fee of twenty-five dollars (\$25.00) for issuing  
23 and recording a domestic partnership license. Fifteen dollars  
24 (\$15.00) of each fee shall be remitted by the county treasurer  
25 to the state treasurer within fifteen days of the last day of

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1 each month, for credit to the children's trust fund.

2 Section 6. ESTABLISHING A DOMESTIC PARTNERSHIP. --

3 A. A domestic partnership is established when the  
4 domestic partnership is licensed. The license of domestic  
5 partnership shall be filed with the county clerk in the county  
6 where the domestic partners entered into the domestic  
7 partnership and recorded in the record of domestic partnership.

8 B. To obtain a license, prospective domestic  
9 partners shall:

10 (1) file an application for and affidavit of  
11 domestic partnership with the county clerk on a form that  
12 conforms with the requirements of the Domestic Partner Rights  
13 and Responsibilities Act stating that the domestic partners:

14 (a) then share or will share a common  
15 residence immediately upon becoming licensed;

16 (b) have reached the age of majority;

17 (c) are capable of consenting;

18 (d) are not married to others and are  
19 not part of a domestic partnership that has not been  
20 terminated, dissolved or adjudged a nullity; and

21 (e) are not related by blood in a way  
22 that would prevent marriage under the laws of New Mexico; and

23 (2) pay the required fee.

24 C. After the application for and affidavit of  
25 domestic partnership has been notarized, the county clerk shall

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1 issue a domestic partnership license to the domestic partners.  
2 The license shall be mailed to the domestic partners, and the  
3 domestic partners shall return the license to be recorded at  
4 the county clerk's office within ninety days of the date of the  
5 affidavit.

6 Section 7. AFFIDAVIT OF DOMESTIC PARTNERSHIP--FORMS.--

7 A. An affidavit of domestic partnership shall be  
8 substantially as provided in this section, with each form to be  
9 numbered consecutively corresponding with the page number of  
10 the record book in the county clerk's office. All such forms  
11 shall be provided free of cost by the county.

12 B. The affidavit forms shall be substantially as  
13 follows:

14 "APPLICATION FOR DOMESTIC PARTNERSHIP LICENSE AND  
15 AFFIDAVIT OF DOMESTIC PARTNERSHIP NO. \_\_\_\_  
16 STATEMENTS RECEIVED AND FILED IN COUNTY CLERK'S OFFICE AT  
17 \_\_\_\_ O' CLOCK \_\_\_\_ .M ON \_\_\_\_\_, 20\_\_\_\_.  
18 COUNTY CLERK, \_\_\_\_\_ COUNTY

19 By \_\_\_\_\_ Deputy

20 To the county clerk:

21 We the undersigned hereby make application to be united in  
22 a domestic partnership and certify that:

23 we share a common residence or will share one as of  
24 the date of this affidavit;

25 each of us has reached the age of majority;

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1 each of us is capable of consenting to this domestic  
2 partnership;

3 neither of us is married to another or is part of  
4 another domestic partnership that has not been terminated,  
5 dissolved or adjudged a nullity;

6 we are not related by blood in a way that would prevent  
7 marriage under the laws of New Mexico;

8 the information contained in this affidavit is correct.

9 Applicant 1	Applicant 2
10 Date of birth:	Date of birth:
11 _____	_____
12 Place of birth:	Place of birth:
13 _____	_____
14 Present address:	Present address:
15 _____	_____
16 _____	_____
17 _____	_____

18 Signature	Signature
19 Subscribed and sworn to before me this ___ day of _____,	
20 20__.	
21 _____	By _____ Deputy
22 Signature, County Clerk".	

23 C. The license forms shall be substantially as  
24 follows:

25 "DOMESTIC PARTNERSHIP LICENSE

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1 State of New Mexico, )

2 County of \_\_\_\_\_ ) ss.

3 To any person authorized by law to acknowledge this domestic  
4 partnership or to perform a domestic partnership ceremony, this  
5 license certifies that the two persons below are authorized under  
6 the laws of the State of New Mexico to form a domestic  
7 partnership. You must return this license to be recorded within  
8 ninety days to the county in which the domestic partners signed a  
9 domestic partnership affidavit.

10 \_\_\_\_\_ of \_\_\_\_\_ and

11 Partner 1 Address

12 \_\_\_\_\_ of \_\_\_\_\_

13 Partner 2 Address

14 are hereby recognized as domestic partners.

15 Witness \_\_\_\_\_

16 Signature of Witness 1 Witness 1 name, printed

17 Witness \_\_\_\_\_

18 Signature of Witness 2 Witness 2 name, printed

19 Witness my hand this \_\_\_\_ day of \_\_\_\_\_,  
20 20\_\_.

21 \_\_\_\_\_

22 County Clerk

23 Recorded \_\_\_\_\_, 20\_\_, at \_\_\_\_ .m

24 in domestic partnership record book No. \_\_, page \_\_.

25 \_\_\_\_\_

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County Clerk".

Section 8. LIBERAL CONSTRUCTION.--The Domestic Partner Rights and Responsibilities Act shall be liberally construed to carry out its purpose.

Section 9. SEVERABILITY.--If any part or application of the Domestic Partner Rights and Responsibilities Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2005.