

ORDINANCE NO. 1999-18

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, RELATING TO DOMESTIC PARTNERSHIPS; AMENDING THE BROWARD COUNTY DOMESTIC PARTNERSHIP ACT OF 1999; AMENDING SECTION 16½-151 RELATING TO FINDINGS AND CONSTRUCTION AND MAKING TECHNICAL AND CONFORMING CHANGES; RENUMBERING PROVISIONS; AMENDING SECTION 16½-152 RELATING TO DEFINITIONS AND MAKING TECHNICAL AND CONFORMING CHANGES; RENUMBERING PROVISIONS; AMENDING SECTION 16½-153 RELATING TO REGISTRATION OF DOMESTIC PARTNERSHIP RELATIONSHIP; PROHIBITING DOMESTIC PARTNERSHIPS BY PERSONS RELATED BY BLOOD; RENUMBERING PROVISIONS; RENUMBERING SECTION 16½-154 RELATING TO TERMINATION OF REGISTERED DOMESTIC PARTNERSHIP; RENUMBERING SECTION 16½-155 RELATING TO MAINTENANCE OF RECORDS AND FILING FEES; REPEALING SECTION 16½-156 RELATING TO RIGHTS AND OBLIGATIONS; RENUMBERING AND AMENDING SECTION 16½-157 RELATING TO COUNTY EMPLOYEES; LIMITING THE NUMBER OF ELECTIONS FOR COVERAGE OF DOMESTIC PARTNERS; RENUMBERING SECTION 16½-158 RELATING TO PREFERENCES FOR COUNTY CONTRACTORS; RENUMBERING SECTION 16½-159 RELATING TO VISITATION TO LICENSED FACILITIES; RENUMBERING SECTION 16½-160 RELATING TO DESIGNATION OF HEALTH CARE SURROGATE; RENUMBERING SECTION 16½-161 RELATING TO DESIGNATION OF PRENEED GUARDIAN; RENUMBERING SECTION 16½-162 RELATING TO VISITATION RIGHTS AT COUNTY CORRECTIONAL AND JUVENILE DETENTION FACILITIES; RENUMBERING SECTION 16½-163 RELATING TO NOTIFICATION OF FAMILY MEMBERS IN EMERGENCIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by Board of County Commissioners)

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 16½-151 of Article VI of Chapter 16½ of the Broward County Code is amended to read:

**Sec. 16½-151. Findings; construction.**

(a)~~(1)~~ 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

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1 denied public and private sector benefits because there is no established system for such  
2 relationships to be registered or ~~and~~ recognized. In addition, because of the status of their  
3 relationship, domestic partners in many cases are not extended certain employment benefits  
4 that are otherwise made available to other employees.

5 ~~(b)(2)~~ The Broward County Board of County Commissioners finds that employment  
6 benefits form an essential portion of the compensation provided to employees. In fact, the  
7 U.S. Census Bureau has estimated that over 30 percent of all compensation paid to  
8 employees is provided in the form of benefits. The importance of benefits to employees has  
9 been underscored by a 1994 Employee Benefit Research which survey found that 67  
10 percent of employees would prefer to return a portion of their cash salary rather than any  
11 portion of their benefit program.

12 ~~(c)(3)~~ The Broward County Board of County Commissioners acknowledges that in  
13 1994 over 3 million Americans identified themselves as living in a domestic partnership. As  
14 a result, employers have begun to provide domestic partner benefits in greater numbers.

15 ~~(d)(4)~~ The Broward County Board of County Commissioners finds that the provision  
16 of domestic partner benefits promotes employee recruitment, employee retention, and  
17 employee loyalty. Furthermore, the provision of such benefits promotes fairness and serves  
18 to address the discriminatory effect of practices which deny such benefits solely upon the  
19 basis of an employee's familial or marital status.

20 ~~(e)(5)~~ The provisions of this act shall be liberally construed to promote the public  
21 safety, health, and general welfare of the residents of Broward County and to further the  
22 general policies and purposes stated in this act. However, this act shall not be construed  
23 to supersede any federal, ~~or~~ state, or county laws or regulations, nor shall this act be  
24 interpreted in a manner as to bring it into conflict with federal, ~~or~~ state, or county laws. The  
25 rules developed to implement the provisions of this act shall be liberally construed to  
26 accomplish the policies and purposes stated in this act.

27 Section 2. Section 16½-152 of Article VI of Chapter 16½ of the Broward County  
28 Code is amended to read:

29 **Sec. 16½-152. Definitions.** -- For purposes of this Act:

30 ~~(a)(1) "Basic living expenses" means basic food and shelter.~~

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1           ~~(a)(2)~~ "Business" means any corporation, partnership, sole proprietorship, firm, joint  
2 stock company, joint venture, or other private legal entity, except governmental entities, not-  
3 for-profit corporations, or charitable organizations.

4           ~~(b)(3)~~ "Contractor" means any business which has, or is awarded, one or more  
5 contracts by Broward County.

6           ~~(c)(4)~~ "County employee" means active or retired employees of Broward County,  
7 Florida, who are eligible for benefits pursuant to federal, state, or county laws, county  
8 administrative rules, or collective bargaining agreements.

9           ~~(d)(5)~~ "Declaration of Domestic Partnership" means ~~is~~ a sworn form under penalty  
10 of perjury, which certifies that said individuals meet the requirements of a domestic  
11 partnership relationship as described in section 16½-153.

12           ~~(e)(6)~~ "Domestic Partners" means only two adults who are parties to a valid domestic  
13 partnership relationship and who meet the requisites for a valid domestic partnership  
14 relationship as established pursuant to section 16½-153.

15           (f)     "Dependent," as used with regard to domestic partnership benefits, pursuant  
16 to Section 16½-156, means the domestic partner of a County employee.

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

25           (g)     "Dependent of domestic partner" or "dependent of employee," as used with  
26 regard to domestic partnership benefits, pursuant to Section 16½-156, means a person who  
27 is eligible for coverage under the County's insurance plans.

28           ~~(7)~~ ~~"Employee," as used in section 16½-158 of this act, means a full-time~~  
29 ~~employee who works 35 or more hours per week.~~

30           ~~(h)(8)~~ "Jointly Responsible Responsibility" means each domestic partner mutually  
31 agrees to provide for the other partner's basic food and shelter ~~living expenses~~ while the  
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1 domestic partnership relationship is in effect, except that partners need not contribute  
2 equally or jointly to said basic food and shelter ~~living expenses~~.

3 Section 3. Section 16½-153 of Article VI of Chapter 16½ of the Broward County  
4 Code is amended to read:

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

6 ~~(a)(1)~~ A valid domestic partnership relationship may be registered by two persons,  
7 who are domiciled in Broward County or are, otherwise, subject to the provisions of this  
8 ordinance, by filing a declaration of domestic partnership with the Broward County Records  
9 Division, which declaration shall comply with all requirements for establishing such domestic  
10 partnership. Upon payment of any required fees, the county clerk shall file the declaration  
11 of domestic partnership and issue a certificate reflecting the registration of the domestic  
12 partnership relationship in Broward County.

13 ~~(b)(2)~~ A declaration of domestic partnership shall contain the name and address of  
14 each domestic partner, the signature of each partner, and each partner shall swear or affirm  
15 under penalty of perjury that:

- 16 ~~(1)(a)~~ Each person is at least 18 years old and competent to contract;
- 17 ~~(2)(b)~~ Neither person is married nor a partner to another domestic partnership  
18 relationship;
- 19 ~~(3)~~ They are not related by blood;
- 20 ~~(4)(e)~~ Consent of either person to the domestic partnership relationship has  
21 not been obtained by force, duress, or fraud; and
- 22 ~~(5)(d)~~ Each person agrees to be jointly responsible for each other's basic  
23 food and shelter.

24 ~~(c)(3)~~ Any partner to a domestic partnership may file an amendment to the domestic  
25 partnership certificate issued by County Records Division to reflect a change in his or her  
26 legal name.

27 ~~(d)(4)~~ No person who has entered into a domestic partnership relationship may enter  
28 into a new domestic partnership until 30 days after the termination of a previous domestic  
29 partnership relationship.

30 Section 4. Section 16½-154 of Article VI of Chapter 16½ of the Broward County  
31 Code is amended to read:

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

2           ~~(a)(1)~~ Either partner to a registered domestic partnership relationship may terminate  
3 such relationship by filing a notarized declaration of termination of domestic partnership  
4 relationship with the County Records Division. Upon the payment of the required fee, the  
5 county clerk shall file the declaration and issue a certificate of termination of domestic  
6 partnership relationship to each partner of the former relationship. The termination shall  
7 become effective 30 days from the date the certificate of termination is issued.

8           ~~(b)(2)~~ If any partner to a domestic partnership relationship enters into a legal  
9 marriage, the domestic partnership relationship shall terminate automatically, and all rights,  
10 benefits, and entitlements thereunder shall cease as of the effective date of the marriage.  
11 The marrying domestic partner shall file a declaration terminating the domestic partnership  
12 relationship within 10 days after entering into a legal marriage.

13           ~~(c)(3)~~ The death of either domestic partner shall automatically terminate the  
14 domestic partnership relationship.

15           Section 5. Section 16½-155 of Article VI of Chapter 16½ of the Broward County  
16 Code is amended to read:

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

18           ~~(a)(1)~~ The Broward County Records Division shall, by administrative rule, prescribe  
19 the form of all declarations, amendments, and certificates required to be filed under this act.  
20 The County Records Division shall maintain a record of all declarations, amendments, and  
21 certificates filed pursuant to this act. The records shall be maintained so that all  
22 declarations, amendments, and certificates shall be filed with the registered domestic  
23 partnership to which they apply.

24           ~~(b)(2)~~ Filing Fees. The County Administrator is authorized to establish fees for the  
25 filing of any declarations, amendments, and the issuance of any certificates required by this  
26 act, subject to the approval of the County Commission. The fees shall be included within  
27 the Broward County Administrative Code. Any fees established under this section shall be  
28 sufficient to cover costs of administering the provisions of this article.

29           Section 6. Section 16½-156 of Article VI of Chapter 16½ of the Broward County  
30 Code is repealed:

31           ~~**Sec. 16½-156. Obligations; Rights.**~~

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1           ~~(1) — Obligations. The parties to a domestic partnership shall be jointly responsible;~~  
2 ~~at a minimum, for providing each other with basic living expenses as defined in section 16½-~~  
3 ~~152. Any partner to a domestic partnership relationship may enforce the joint~~  
4 ~~responsibilities established by this act in a court of competent jurisdiction. Upon termination~~  
5 ~~of a domestic partnership relationship, the partners to such relationship shall incur no~~  
6 ~~further obligations to each other, or to any third parties as provided by this act.~~

7           ~~(2) — Rights. Upon the issuance of a certificate of domestic partnership relationship,~~  
8 ~~the partners named in the certificate shall be entitled to those rights, benefits, and~~  
9 ~~entitlements provided to domestic partnerships under this act.~~

10           Section 7. Section 16½-157 of Article VI of Chapter 16½ of the Broward County  
11 Code is redesignated as Section 16½-156 and amended to read:

12           **Sec. 16½-~~156~~157. County employees; extension of benefits.**

13           ~~(a)(1)~~ Any County employee who is a party to a registered domestic partnership  
14 relationship, pursuant to section 16½-153 of this act, shall be entitled to elect insurance  
15 coverage for his or her domestic partner or a dependent of such domestic partner on the  
16 same basis in which any County employee may elect insurance coverage for his or her  
17 spouse or dependents. A County employee's right to elect insurance coverage for his or  
18 her domestic partner, or the partner's dependent, shall extend to all forms of insurance  
19 provided by the County to the spouses and dependents of County employees, unless such  
20 coverage is prohibited by state or federal law. All elections of coverage shall be made in  
21 accordance with the requirements of applicable county ordinances, administrative rules, and  
22 county policies. However, in no event shall an employee make an election for coverage of  
23 a domestic partner more than two times in a plan year.

24           ~~(b)(2)~~ Any County employee who is a party to a registered domestic partnership  
25 relationship, pursuant to section 16½-153 of this act, shall be entitled to use all forms of  
26 leave provided by the County including, but not limited to, sick leave, annual leave, family  
27 illness leave and bereavement leave to care for his or her domestic partner or the  
28 dependent of the domestic partner as applicable. The use of leave authorized in this  
29 section shall be consistent with the applicable requirements in county ordinances,  
30 administrative rules, and county policies.

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1        ~~(c)(3)~~ Unless prohibited by state or federal law, all other benefits available to the  
2 spouses and dependents of County employees shall be made available on the same basis  
3 to the domestic partner, or dependent of such domestic partner, of a County employee who  
4 is a party to a registered domestic partnership relationship pursuant to section 16½-153 of  
5 this act.

6        ~~(d)(4)~~ The County Administrator is authorized to take all actions necessary to  
7 implement the provisions of this section by no later than January 1, 2000.

8        Section 8. Section 16½-158 of Article VI of Chapter 16½ of the Broward County  
9 Code is redesignated as Section 16½-157 and amended to read:

10        **Sec. 16½-157158. Preference for county contractors providing for**  
11 **nondiscrimination of benefits for domestic partners.**

12        Except where federal or state law mandates to the contrary, in the purchase of  
13 personal property, general services, or professional services, as such terms are defined in  
14 County Ordinance 1-74, by means of competitive bid or proposal procedure, a preference  
15 in an amount of one (1) percent of the bid or proposal price may be given to a Contractor  
16 providing for nondiscrimination of benefits for Domestic Partners.

17        ~~(a)(1)~~ Public works.

18        Except where federal or state law mandates to the contrary, in the purchase of, or  
19 contract for, the construction or renovation of public works or improvements, a preference  
20 in an amount of one (1) percent of the bid or proposal price may be given to a Contractor  
21 providing for nondiscrimination of benefits for Domestic Partners.

22        ~~(b)(2)~~ Point totals.

23        Except where federal or state law mandates to the contrary, in the purchase of  
24 personal property, general services, or professional services by means of letter of interest  
25 and competitive selection and negotiation in which objective factors used to evaluate the  
26 letters of interest or other submittals received from vendors are assigned point totals, a  
27 preference in the amount of ten (10) percent may be given to a Contractor providing for  
28 nondiscrimination of benefits for Domestic Partners.

29        ~~(c)(3)~~ Other preferences.

30        The preferences established herein in no way prohibit the right of the Board of  
31 County Commissioners to compare quality of materials proposed for purchase and compare  
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1 qualifications, character, responsibility and fitness of all persons, firms, or corporations  
2 submitting bids or proposals. Further, the preferences established herein in no way prohibit  
3 the right of the Broward County Board of County Commissioners from giving any other  
4 preference permitted by law instead of the preference granted herein.

5 Section 9. Section 16½-159 of Article VI of Chapter 16½ of the Broward County  
6 Code is redesignated as Section 16½-158 and amended to read:

7 **Sec. 16½-158~~159~~. Visitation to licensed facilities.**

8 (a)~~(1)~~ If a health care facility or any licensed residential facility restricts the visitors  
9 of a patient or resident, the facility shall permit the patient or resident to name those  
10 individuals whom he or she wishes to visit, including any domestic partner, or any children  
11 or family member of such domestic partner, unless:

- 12 (1)~~(a)~~ No visitors are allowed; or
- 13 (2)~~(b)~~ The facility, in its sole discretion, decides that the presence of a  
14 particular individual named by the patient or resident would endanger the  
15 health or safety of a patient or a resident, or would endanger the primary  
16 operations of the facility.

17 (b)~~(2)~~ If a patient or resident has not made the designation provided for in paragraph  
18 (1), the facility shall permit the patient or resident's domestic partner, the children of the  
19 domestic partner, and any other family member of the patient or resident's domestic partner,  
20 to visit, unless one of the exceptions described in paragraph (1)(a) or (1)(b) applies.

21 (c)~~(3)~~ A domestic partner of a patient or resident shall have the same rights as would  
22 a spouse or other family member with respect to visitation, and the making of health care  
23 decisions for the patient or resident, to the extent that a patient or resident has not executed  
24 a valid power of attorney for health care or a health care surrogate designation.

25 Section 10. Section 16½-160 of Article VI of Chapter 16½ of the Broward County  
26 Code is redesignated as Section 16½-159 and amended to read:

27 **Sec. 16½-159~~160~~. Health care surrogate designation.**

28 Any person who is a party to a registered domestic partnership relationship, pursuant  
29 to section 16½-153 of this act, shall have the same right as any other individual to be  
30 designated as health care surrogate of his or her domestic partner pursuant to Part II of  
31 Chapter 765, Florida Statutes, and a person so designated shall have the right to make  
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1 health care decisions on behalf of his or her domestic partner; to provide, withhold, or  
2 withdraw consent on behalf of his or her domestic partner; to apply for public benefits to  
3 defray the cost of health care; and to authorize the admission to, or transfer from, a health  
4 care facility. No person designated as a health care surrogate shall be denied or otherwise  
5 be defeated in serving as a health care surrogate based solely upon his or her status as the  
6 domestic partner of the partner on whose behalf health care decisions are to be made.

7 Section 11. Section 16½-161 of Article VI of Chapter 16½ of the Broward County  
8 Code is redesignated as Section 16½-160 and amended to read:

9 **Sec. ~~16½-160~~161. Preneed guardian designation.**

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

19 Section 12. Section 16½-162 of Article VI of Chapter 16½ of the Broward County  
20 Code is redesignated as Section 16½-161 and amended to read:

21 **Sec. ~~16½-161~~162. Visitation rights at county correctional and juvenile**  
22 **detention facilities.**

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

30 Section 13. Section 16½-163 of Article VI of Chapter 16 ½ of the Broward County  
31 Code is redesignated as Section 16½-162 and amended to read:

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1       **Sec. 16<sup>1</sup>/<sub>2</sub>-~~162~~163. Notification of family members.** In any situation providing for  
2 mandatory or permissible notification of family members, including notification of family  
3 members in an emergency, or when permission is granted to inmates to contact family  
4 members, "notification of family" shall include domestic partners.

5       Section 14. SEVERABILITY.

6       If any section, sentence, clause or phrase of this Ordinance is held to be invalid or  
7 unconstitutional by any court of competent jurisdiction, then said holding shall in no way  
8 affect the validity of the remaining portions of this Ordinance.

9       Section 15. INCLUSION IN CODE.

10       It is the intention of the Board of County Commissioners that the provisions of this  
11 Ordinance shall become and be made a part of the Broward County Code; and that the  
12 sections of this Ordinance may be renumbered or relettered and the word "ordinance" may  
13 be changed to "section," "article," or such other appropriate word or phrase in order to  
14 accomplish such intentions.

15       Section 16. EFFECTIVE DATE.

16       This Ordinance shall become effective as provided by law.

17       ENACTED   April 27, 1999

18       FILED WITH DEPARTMENT OF STATE May 3, 1999

19       EFFECTIVE May 3, 1999

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21 PURPOSE: To extend certain rights and benefits to members who are parties to a  
22 domestic partnership relationship; to provide certain terms and limitations relative to the  
23 extension of benefits to domestic partners; to delete unnecessary provisions; and to make  
24 certain technical and conforming amendments.

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