

CHAPTER 2B

CERTIFICATE OF DOMESTIC PARTNERSHIP

Authority

N.J.S.A. 26:8A-1 et seq., particularly 26:8A-12a.

Source and Effective Date

R.2005 d.285, effective September 6, 2005.
37 N.J.R. 183(a), 37 N.J.R. 3344(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 2B, Certificate of Domestic Partnership, expires on March 5, 2011. See: 42 N.J.R. 2361(a).

Chapter Historical Note

Chapter 2B, Certificate of Domestic Partnership, was adopted as R.2005 d.285, effective September 6, 2005. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

8:2B-1.1 Application and scope

The rules of this chapter are promulgated by the Department of Health and Senior Services in order to implement the Domestic Partnership Act, P.L. 2003, c. 246. The Act provides, among other things, that there shall be procedures for the filing of Affidavits of Domestic Partnership, issuance of Certificates of Domestic Partnership and maintaining of records of domestic partnership.

8:2B-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Affidavit of Domestic Partnership” means an affidavit that sets forth each party’s name and age, the parties’ common mailing address, and a statement that, at the time the affidavit is signed, both parties meet the requirements of this chapter for entering into a domestic partnership and wish to enter into a domestic partnership with each other.

“Basic living expenses” means the cost of basic food and shelter, and any other cost, including, but not limited to, the cost of health care, if some or all of the cost is paid as a benefit because a person is another person’s domestic partner.

“Certified copy” means a copy of a vital record issued on a special type of safety paper containing a variety of security features and stamped with the raised seal of the State of New Jersey or the seal of the municipality or county where the copies are issued, and verified by the Office of the State Registrar as true and correct.

“Certification” means a document containing information obtained from a vital record made available for informational purposes only. It cannot be used for proof of identity or for legal purposes. It is created on plain bond paper without the raised seal of the State of New Jersey or the seal of the municipality where the certifications are issued.

“Certificate of Domestic Partnership” means a certificate that includes: the full names of the domestic partners, a statement that the two individuals are members of a registered domestic partnership recognized by the State of New Jersey, the date that the domestic partnership was entered into, and a statement that the partners are entitled to all the rights, privileges and responsibilities accorded to domestic partners under the law. The certificate shall bear the seal of the State of New Jersey.

“Commissioner” means the Commissioner of Health and Senior Services.

“Common residence” means that two persons share the same place to live in this State, or share the same place to live in another jurisdiction when at least one of the persons is a member of the New Jersey State-administered retirement system, regardless of whether or not: the legal right to possess the place is in both of their names; one or both persons have additional places to live; or one person temporarily leaves the shared place of residence to reside elsewhere, on either a short-term or long-term basis, for reasons that include, but are not limited to, medical care, incarceration, education, a sabbatical or employment, but intends to return to the shared place of residence.

“Department” means the Department of Health and Senior Services.

“Domestic partner” or “partner” means a person who is in a relationship that satisfies the definition of a domestic partnership as set forth in P.L. 2003, c. 246.

“Genealogical records” means vital records traditionally requested for the purpose of obtaining the lineage of a person, family or group from a family. Records of domestic partnership are considered genealogical after 50 years have passed from the date of the domestic partnership.

“Identify” means to provide, by way of approved application, letter, or facsimile, detailed proof of knowledge of the vital record being requested and must include at a minimum, all information requested on the Vital Statistics and Registration application form.

“Jointly responsible” means that each domestic partner agrees to provide for the other partner’s basic living expenses if the other partner is unable to provide for himself or herself.

“Local registrar” means the local registrar of vital statistics of any district.

“Notice of Rights and Obligations of Domestic Partners” means a form that advises domestic partners, or persons seeking to become domestic partners, of the procedural requirements for establishing, maintaining, and terminating a domestic partnership, and includes information about the rights and responsibilities of the partners.

“State Registrar” means the State Registrar of Vital Statistics

“Vital records” means the birth, death, fetal death, marriage, and domestic partnership records from which vital statistics are produced.

“Vital statistics” means statistics concerning births, deaths, fetal deaths, marriages and domestic partnerships.

SUBCHAPTER 2. ESTABLISHING A DOMESTIC PARTNERSHIP

8:2B-2.1 Filing of an Affidavit of Domestic Partnership

(a) Two persons who desire to become domestic partners and who meet the requirements of (b) below may, upon payment of the appropriate fee as set forth at N.J.A.C. 8:2B-2.3, complete an Affidavit of Domestic Partnership and file that Affidavit of Domestic Partnership with the local registrar.

1. The State Registrar shall prepare blank forms of Affidavits of Domestic Partnership and make those forms available to all local registrars.

i. Blank forms of Affidavits of Domestic Partnership may be obtained by local registrars from the Bureau of Vital Statistics and Registration of the Department of

Health and Senior Services, PO Box 370, Trenton, New Jersey, 08625-0370.

2. Local registrars shall make blank forms of Affidavits of Domestic Partnership available to all persons seeking to become domestic partners.

(b) A domestic partnership shall be established when all of the following requirements are met:

1. Both persons share a common residence within the State of New Jersey or both persons share a common residence in another jurisdiction when at least one of those persons is a member of a New Jersey State-administered retirement system;

2. Both persons are jointly responsible for each other’s common welfare as evidenced by joint financial arrangements or joint ownership of real or personal property, which shall be demonstrated by at least one of the following:

i. A joint deed, mortgage agreement or lease;

ii. A joint bank account;

iii. Designation of one of the persons as a primary beneficiary in the other person’s will;

iv. Designation of one of the persons as a primary beneficiary in the other person’s life insurance policy or retirement plan; or

v. Joint ownership of a motor vehicle;

3. Both persons agree to be jointly responsible for each other’s basic living expenses during the domestic partnership;

4. Neither person is in a marriage recognized by New Jersey law or a member of another domestic partnership;

5. Neither person is related to the other by blood or affinity up to and including the fourth degree of consanguinity;

6. Both persons are of the same sex and, therefore, unable to enter into a marriage with each other that is recognized by New Jersey law, except that two persons who are each 62 years-of-age or older and not of the same sex may establish a domestic partnership if they meet the requirements of this section;

7. Both persons have chosen to share each other’s lives in a committed relationship of mutual caring;

8. Both persons are at least 18 years-of-age;

9. Both persons file jointly an Affidavit of Domestic Partnership; and

10. Neither person has been a partner in a domestic partnership that was terminated less than 180 days prior to the filing of the current Affidavit of Domestic Partnership, except that this prohibition shall not apply if one of the partners died; and, in all cases in which a person registered

a prior domestic partnership shall have been terminated in accordance with N.J.S.A. 26:8A-10.

(c) Upon receipt of a completed notarized Affidavit of Domestic Partnership and upon receipt of the appropriate fee pursuant to N.J.A.C. 8:2B-2.3, the local registrar shall:

1. Stamp the completed Affidavit of Domestic Partnership with the date of its receipt and the name of the registration district in which it is filed, and mark the document "filed"; and

2. Immediately provide two copies of the stamped Affidavit of Domestic Partnership to the person who filed the document.

(d) Each local registrar shall, on or before the 10th day of each calendar month, or sooner if requested by the Department, transmit to the State Registrar the original of all Affidavits of Domestic Partnership filed with the local registrar during the preceding month.

(e) The State Registrar shall cause all Affidavits of Domestic Partnership received to be alphabetically indexed by the surname of one of the partners and shall cross-reference each Affidavit of Domestic Partnership so filed to allow the records to be identified by the surname of the second partner.

8:2B-2.2 Issuance of a Certificate of Domestic Partnership

(a) Upon filing by the persons seeking to become domestic partners of the Affidavit of Domestic Partnership with the local registrar and upon receipt by the local registrar of the appropriate fee pursuant to N.J.A.C. 8:2B-2.3, the local registrar shall immediately complete a Certificate of Domestic Partnership containing the domestic partners' relevant information and the date that the domestic partnership was established.

(b) After completing a Certificate of Domestic Partnership pursuant to (a) above, the local registrar shall issue to the domestic partners two copies of the Certificate of Domestic Partnership and two copies of the Notice of the Rights and Obligations of Domestic Partners.

1. Blank forms of Certificates of Domestic Partnership and copies of the Notice of Rights and Obligations of Domestic Partners may be obtained by local registrars from the Bureau of Vital Statistics and Registration of the Department of Health and Senior Services, PO Box 370, Trenton, New Jersey, 08625-0370.

(c) Each local registrar shall, on or before the 10th day of each calendar month, or sooner if requested by the Department, transmit to the State Registrar the original of all Certificates of Domestic Partnership issued by the local registrar during the preceding month.

(d) The State Registrar shall cause all Certificates of Domestic Partnership received to be alphabetically indexed by the surname of one of the partners and shall cross-reference each Certificate of Domestic Partnership so filed to allow the records to be identified by the surname of the second partner.

8:2B-2.3 Fee for filing an Affidavit of Partnership

(a) The fee for filing an Affidavit of Domestic Partnership shall be consistent with the fee established for the issuance of a marriage license as set forth in N.J.S.A. 37:1-12.1.

(b) The local registrar shall collect the fees from applicants for domestic partnership and shall forward those fees to the Department on a quarterly basis.

8:2B-2.4 Civil penalty

(a) A person who executes an Affidavit of Domestic Partnership in violation of the provisions of N.J.S.A. 26:8A-4 shall be subject to a civil penalty in an amount not to exceed \$1,000.

(b) The local registrar shall report to the State Registrar any and all known or suspected violations of the provisions of N.J.S.A. 26:8A-4.

(c) The Department, upon receipt of a report of violation from the local registrar, or of its own accord, may set a fixed amount of money as a civil penalty, not to exceed \$1,000, against those persons who it determines have executed an Affidavit of Domestic Partnership in violation of the provisions of N.J.S.A. 26:8A-4.

(d) Whenever the Department shall find cause to impose a civil penalty under (c) above, it shall notify the person against whom the penalty has been imposed of the reasons therefor, in writing, and provide an opportunity for a hearing in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) All requests for hearing shall be filed within 10 business days from the date of receipt of the notice. The Commissioner or his or her designee shall issue the final decision in accordance with the applicable provisions of the Administrative Procedure Act and the Uniform Administrative Procedure Rules.

1. All requests for hearing shall be in writing and shall be directed to the following address:

State Registrar – Hearing Request
 Bureau of Vital Statistics and Registration
 PO Box 370
 Trenton, New Jersey 08625-0370

SUBCHAPTER 3. ACCESS TO CERTIFICATES AND AFFIDAVITS OF DOMESTIC PARTNERSHIP

8:2B-3.1 Certified copies

(a) The State Registrar or a local registrar may only issue a certified copy of a Certificate of Domestic Partnership or Affidavit of Domestic Partnership to a person who satisfies the following requirements:

1. The person is able to identify the record;
2. The person provides, at a minimum, all of the information requested on the Vital Statistics and Registration application form; and
3. The person produces documentation verifying that he or she is:
 - i. One of the subjects listed on the Certificate of Domestic Partnership;
 - ii. The subject's parent;
 - iii. The subject's legal guardian or legal representative;
 - iv. The subject's child, grandchild or sibling, if of legal age;
 - v. A State or Federal agency requesting the record for official purposes;
 - vi. A person requesting the record pursuant to a court order; or
 - vii. A person requesting the record under emergent circumstances, as determined on a case-by-case basis by the Commissioner.

8:2B-3.2 Certifications

(a) The State Registrar or local registrar may issue certifications containing information obtained from the Affidavit of Domestic Partnership or Certificate of Domestic Partnership to requestors not identified in N.J.A.C. 8:2B-3.1(a)3, so long as those requestors are first able to identify the record sought.

(b) All certifications issued under (a) above shall state that they are for informational purposes only and are not to be used for identification or legal purposes.

8:2B-3.3 Fees for certified copies and certifications

(a) For each search of the records of domestic partnership by the State Registrar, whether or not a certification or a certified copy is made, the applicant shall remit to the State Registrar a fee of \$25.00, with the exception of searches under (b) below and searches for which there shall be no fee pursuant to N.J.S.A. 26:8-63.

(b) For any search of genealogical records of domestic partnership, whether or not a certification or certified copy is

made, the applicant shall remit to the State Registrar a fee of \$25.00, plus a fee of \$1.00 for each additional year searched, except as provided by N.J.S.A. 26:8-63.

(c) The fee for each additional copy of a record of domestic partnership provided by the State Registrar shall be \$2.00.

(d) Fees for certified copies or certifications obtained from a local registrar shall be set by municipal ordinance.

SUBCHAPTER 4. OBLIGATION TO REPORT, CORRECTIONS TO CERTIFICATES, AND TERMINATION OF A DOMESTIC PARTNERSHIP

8:2B-4.1 Obligation to report

(a) Upon demand of the State Registrar either in person, by mail or through the local registrar, a person having knowledge of the facts relative to any domestic partnership shall supply such information as he or she may possess, upon a form provided by the State Registrar or upon the original Certificate of Domestic Partnership.

8:2B-4.2 Corrections to a Certificate of Domestic Partnership

(a) A Certificate of Domestic Partnership filed with the State Registrar shall not be altered or changed, except as provided in (b) below.

(b) Corrections to a Certificate of Domestic Partnership shall be signed by the person who signed the original Certificate of Domestic Partnership or by any other person having personal knowledge of the matters sought to be corrected, which other person shall provide a sworn statement of the reason for the requested correction and provide documentation substantiating and justifying the modification to the Certificate of Domestic Partnership, which documentation is verifiable by the State Registrar.

8:2B-4.3 Termination of a domestic partnership

(a) Pursuant to N.J.S.A. 26:8A-10, the Superior Court has jurisdiction over all proceedings relating to the termination of a domestic partnership, including the division and distribution of jointly held property.

(b) Pursuant to N.J.S.A. 26:8A-10, the Superior Court shall notify the State Registrar of the termination of a domestic partnership.

(c) Upon receipt of notification from the court under (b) above, the State Registrar shall revise the records of domestic partnership provided for in N.J.S.A. 26:8A-9 to reflect the termination of a domestic partnership and shall notify the local registrar of the district in which the partnership was registered.