

107TH CONGRESS
2D SESSION

S. 2874

To provide benefits to domestic partners of Federal employees.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2002

Mr. DAYTON (for himself, Mr. CORZINE, Mr. INOUE, and Mr. WELLSTONE)
introduced the following bill; which was read twice and referred to the
Committee on Governmental Affairs

A BILL

To provide benefits to domestic partners of Federal
employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Domestic Partnership
5 Benefits and Obligations Act of 2002”.

6 **SEC. 2. BENEFITS TO DOMESTIC PARTNERS OF FEDERAL**
7 **EMPLOYEES.**

8 (a) IN GENERAL.—A domestic partner of an em-
9 ployee shall be entitled to benefits available to and obliga-
10 tions imposed upon a spouse of an employee.

1 (b) CERTIFICATION OF ELIGIBILITY.—In order to ob-
2 tain benefits under this Act, an employee shall file an affi-
3 davit of eligibility for benefits with the Office of Personnel
4 Management certifying that the employee and the domes-
5 tic partner of the employee—

6 (1) are each other’s sole domestic partner and
7 intend to remain so indefinitely;

8 (2) have a common residence, and intend to
9 continue the arrangement;

10 (3) are at least 18 years of age and mentally
11 competent to consent to contract;

12 (4) share responsibility for a significant meas-
13 ure of each other’s common welfare and financial ob-
14 ligations;

15 (5) are not married to or domestic partners
16 with anyone else;

17 (6) understand that willful falsification of infor-
18 mation within the affidavit may lead to disciplinary
19 action and the recovery of the cost of benefits re-
20 ceived related to such falsification; and

21 (7)(A) are same sex domestic partners, and not
22 related in a way that, if the 2 were of opposite sex,
23 would prohibit legal marriage in the State in which
24 they reside; or

1 (B) are opposite sex domestic partners, and are
2 not related in a way that would prohibit legal mar-
3 riage in the State in which they reside.

4 (c) DISSOLUTION OF PARTNERSHIP.—

5 (1) IN GENERAL.—An employee or domestic
6 partner of an employee who obtains benefits under
7 this Act shall file a statement of dissolution of the
8 domestic partnership with the Office of Personnel
9 Management not later than 30 days after the death
10 of the employee or the domestic partner or the date
11 of dissolution of the domestic partnership.

12 (2) DEATH OF EMPLOYEE.—In a case in which
13 an employee dies, the domestic partner of the em-
14 ployee at the time of death shall be deemed a spouse
15 of the employee for the purpose of receiving benefits
16 under this Act.

17 (3) OTHER DISSOLUTION OF PARTNERSHIP.—

18 (A) IN GENERAL.—In a case in which a
19 domestic partnership dissolves by a method
20 other than death of the employee or domestic
21 partner of the employee, any benefits received
22 by the domestic partner as a result of this Act
23 shall terminate.

24 (B) EXCEPTION.—In a case in which a do-
25 mestic partnership dissolves by a method other

1 than death of the employee or domestic partner
2 of the employee, any health benefits received by
3 the domestic partner as a result of this Act
4 shall continue for a period of 60 days after the
5 date of the dissolution of the partnership. The
6 domestic partner shall pay for such benefits in
7 the same manner that a former spouse would
8 pay for such benefits under applicable provi-
9 sions of chapter 89 of title 5, United States
10 Code.

11 (d) CONFIDENTIALITY.—Any information submitted
12 to the Office of Personnel Management under subsection
13 (b) shall be used solely for the purpose of certifying an
14 individual’s eligibility for benefits under subsection (a).

15 (e) DEFINITIONS.—For purposes of this Act:

16 (1) DOMESTIC PARTNER.—The term “domestic
17 partner” means an adult person living with, but not
18 married to, another adult person in a committed, in-
19 timate relationship.

20 (2) BENEFITS.—The term “benefits” means—

21 (A) civil service retirement, as provided in
22 chapter 83 of title 5, of the United States Code;

23 (B) Federal Employees’ Retirement, as
24 provided in chapter 84 of title 5, United States
25 Code;

1 (C) life insurance, as provided in chapter
2 87 of title 5, United States Code;

3 (D) health insurance, as provided in chap-
4 ter 89 of title 5, United States Code; and

5 (E) compensation for work injuries, as pro-
6 vided in chapter 81 of title 5, United States
7 Code.

8 (3) EMPLOYEE.—

9 (A) With respect to civil service retirement,
10 the term “employee” shall have the meaning
11 given such term in section 8331(1) of title 5,
12 United States Code.

13 (B) With respect to Federal employees’ re-
14 tirement, the term “employee” shall have the
15 meaning given such term in section 8401(11) of
16 title 5, United States Code.

17 (C) With respect to life insurance, the
18 term “employee” shall have the meaning given
19 such term in section 8701(a) of title 5, United
20 States Code.

21 (D) With respect to health insurance, the
22 term “employee” shall have the meaning given
23 such term in section 8901 of title 5, United
24 States Code.

1 (E) With respect to compensation for work
2 injuries, the term “employee” shall have the
3 meaning given such term in section 8101(1) of
4 title 5, United States Code.

5 (4) OBLIGATIONS.—The term “obligations”
6 means any duties or responsibilities that would be
7 incurred by the spouse of an employee.

8 **SEC. 3. EXEMPTION FROM TAX FOR EMPLOYER-PROVIDED**
9 **FRINGE BENEFITS TO DOMESTIC PARTNERS.**

10 Section 106 of the Internal Revenue Code of 1986
11 (relating to contributions by employer to accident and
12 health plans) is amended by adding at the end the fol-
13 lowing new subsection:

14 “(d) TREATMENT OF DOMESTIC PARTNERS.—

15 “(1) IN GENERAL.—Section 2 of the Domestic
16 Partnership Benefits and Obligations Act of 2002
17 shall apply to employees and domestic partners of
18 employees for purposes of this section and any other
19 benefit which is not includible in the gross income
20 of employees by reason of an express provision of
21 this chapter.

22 “(2) DEFINITIONS.—For purposes of this
23 subsection—

24 “(A) DOMESTIC PARTNER.—The term ‘do-
25 mestic partner’ has the meaning given under

1 section 2(e)(1) of the Domestic Partnership
2 Benefits and Obligations Act of 2002.

3 “(B) EMPLOYEE.—The term ‘employee’
4 has the meaning given under section 2(e)(3) of
5 the Domestic Partnership Benefits and Obliga-
6 tions Act of 2002.”.

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