



# **The Legal Rights of Registered Domestic Partners in Washington State**

**June 2011**

**Registered domestic partners receive all spousal rights and duties under Washington state law, but registered domestic partnerships still do NOT equal marriage. True equality requires marriage equality. Get involved and help end anti-gay discrimination in marriage!**

**Please note:** This page provides general information, not legal advice. Registering as domestic partners is a major step because the law provides all spousal rights and responsibilities under Washington state law to those who register. Yet, registered domestic partners may still need wills, powers of attorney, second-parent adoptions, and other legal documents to protect them, especially when traveling out of state. You should consult an attorney about your needs. Long-term couples and those with significant property especially should obtain legal advice about possible tax consequences and how to protect pre-registration property.

### **Who can register as domestic partners in Washington State?**

All same-sex couples and any different-sex couples with at least one partner aged 62 or older can register as domestic partners if:

- ▶ Both partners are at least 18 years old;
- ▶ Both partners share a common residence;
- ▶ Neither partner is married or a state registered domestic partner with another person;
- ▶ Both partners are legally capable of consenting to the domestic partnership; and
- ▶ The partners are not close blood relatives.

### **How do couples register?**

Both partners must submit a “Declaration of State Registered Domestic Partnership” to the Office of the Secretary of State with the required fee and each partner’s signature notarized on the form. Instructions for completing and submitting the Declaration can be found on the form, which is available from the Secretary of State’s office in Olympia and website ([www.secstate.wa.gov](http://www.secstate.wa.gov)), and from county clerks’ offices.

### **What rights do registered domestic partners have in Washington State?**

Some key rights and responsibilities are listed below. Certain benefits for domestic partners, such as some public employee survivor and pension benefits are delayed until 2014.

#### **Family Law Rights and Responsibilities**

- ▶ Dissolution of the domestic partnership in family court;
- ▶ Community property;
- ▶ Joint responsibility for debts, including family expenses and children’s education;
- ▶ Exemption from real estate excise tax for property transferred through dissolution or to establish community property;
- ▶ Right to adopt partner’s child without paying for a home study;
- ▶ Legal presumption that both partners are parents of children born into the domestic partnership - but couples with children should still consult a lawyer about obtaining a second-parent adoption or a parentage judgment to protect their rights, especially for interstate travel;
- ▶ Parenting plan and child support obligations;
- ▶ Right to seek spousal support; and
- ▶ Protection under domestic violence and crime victim laws.

### **Medical and Death-Related Rights**

- ▶ Hospital visitation, medical decision-making, and receipt of health information about partner;
- ▶ Privacy and shared room in long-term care facility;
- ▶ Administer deceased partner's estate;
- ▶ In 2014, state estate tax protection;
- ▶ Recognition on partner's death certificate, rights to authorize autopsy, receive autopsy report, make anatomical gifts, and control disposition of remains;
- ▶ Seek damages for partner's wrongful death;
- ▶ Right to inherit in the absence of a will;
- ▶ Same protection spouses receive against duty to repay public medical costs upon death of partner;
- ▶ For State employees, partner health benefits; and
- ▶ Pension and survivor benefits for public employees, fully available by 2014.

### **Other Rights and Responsibilities**

- ▶ Some workplace benefits, including sick leave to care for ill partner, worker's compensation for injured partner, and unemployment and disability insurance;
- ▶ Equal treatment as spouses under state insurance laws, unless they conflict with federal law;
- ▶ Right not to testify against domestic partner;
- ▶ Spousal rights under guardianship and power of attorney laws;
- ▶ Claim to inheritance under will pre-dating the domestic partnership registration;
- ▶ Probate procedures regarding community property;
- ▶ State benefits for veterans' partners;
- ▶ Many other state law rights and duties too numerous to list here.

### **What rights and responsibilities of marriage are NOT given to registered domestic partners by Washington's law?**

- ▶ Federal law still treats domestic partners unequally in important areas, including the ability to file joint tax returns; exemption from income tax on domestic partner health benefits; social security survivors' and spousal benefits; exemption from inheritance tax; federal veterans' spousal benefits; immigration rights; and
- ▶ Automatic legal status in most other states.

### **Can registering as domestic partners affect our federal income taxes?**

Yes. The IRS requires registered domestic partners in Washington to split their community income on their federal income tax returns, unless the couple has an agreement affecting the "community" or "separate" status of their property or income. Couples should consult a tax professional or attorney with experience in this area of the law about how the IRS policy may affect them.

## When might a couple be advised NOT to register as domestic partners?

- ▶ If either may wish to adopt from a state or country that does not approve adoptions by lesbians, gay men or same-sex couples;
- ▶ If either is in the U.S. military, until repeal of the “Don’t Ask, Don’t Tell” policy is certified and implemented;
- ▶ If either depends on public assistance;
- ▶ If either is a foreign national without permanent legal status in the U.S.;
- ▶ If either or both do not want the state law rights and mutual responsibilities the law now provides registered domestic partners; or feel concerned about the open questions regarding how state law will interact with federal discrimination against same-sex couples.

## Do couples get these new rights if they are registered with their city or employer, or have a status from outside Washington?

Couples who have registered only with a city, county or an employer will not be protected unless they register again with the state. Couples who have a substantially equivalent legal status from another state or country, such as a civil union, a California or Oregon registered domestic partnership or (starting on July 22, 2011) a marriage from a state or country that recognizes marriages of same-sex couples, will be recognized as registered domestic partners under Washington law. **When in doubt, if you want the new protections, register with Washington State.**

*This information is brought to you by the following advocacy groups who applaud the legislators whose dedicated efforts created these expanded protections. For more information or for help finding a lawyer, contact one of the legal organizations below.*



Toll free: (866) 542-8336  
Email: [LegalHelpDesk@lambdalegal.org](mailto:LegalHelpDesk@lambdalegal.org)  
[www.lambdalegal.org](http://www.lambdalegal.org)



Phone: (206) 624-2184  
[www.aclu.wa.org](http://www.aclu.wa.org)



Phone: (206) 621-7691  
Email: [info@LegalVoice.org](mailto:info@LegalVoice.org)  
[www.legalvoice.org](http://www.legalvoice.org)



<http://www.Q-Law.org>



Phone: (206) 324-2570  
[www.equalrightswashington.org](http://www.equalrightswashington.org)