

## QUESTIONS AND ANSWERS REGARDING WASHINGTON STATE'S REGISTERED DOMESTIC PARTNERSHIP LAW



### **Legal Information & Referral:**

206-621-7691

### **Toll-Free:**

1-866-259-7720

### **TTY:**

206-521-4317

### **Web:**

[www.LegalVoice.org](http://www.LegalVoice.org)

Washington State recently passed a new law recognizing domestic partnerships. This law allows same-sex couples and some different-sex couples to register as domestic partners. By registering as domestic partners, you will gain some basic but important legal protections. If you are in a committed same-sex relationship, or a committed different-sex relationship where one of you is 62 years or older, you should learn about this new law and decide whether registering as domestic partners is right for you.

This packet explains the legal rights available to couples that register as domestic partners, answers questions that you may have about this legal status and tells you how to register your partnership.

This publication provides only general information, not legal advice. We suggest that you talk with an attorney about your specific needs and whether you should register.

### **Who Can Register as Domestic Partners?**

All same-sex couples and any different-sex couple in which one partner is 62 or older may be eligible to register as domestic partners if:

- you are both at least 18 years old
- you share a common residence
- neither of you is married to another person or in a domestic partnership with another person
- you are not too closely related by blood

### **Why should we consider registering with the State as domestic partners?**

You may want to register your partnership so that you and your partner can receive the important protections offered by this new law.

## What benefits and protections will we receive if we register as domestic partners?

- **Hospital Visitation** – You have the right to visit your partner if s/he is in the hospital.
- **Health Care Information** – You have the right to receive health care information about your partner from his/her doctor.
- **Medical Decision-Making** – You have the right to make health care decisions for one another if one of you is incapacitated and unable to authorize medical care.
- **Decision-making at time of Partner's Death** - You have the right to make funeral arrangements for your deceased partner; you have the right to authorize an autopsy and to get copies of the autopsy; you have the right to authorize an anatomical gift; you have the right to be recognized on your partner's death certificate; you have the right to authorize removing your deceased partner's remains from a cemetery plot.
- **Right to inherit without a will** – If you and your partner are registered domestic partners and one of you dies, even without a will, the surviving partner may be able to inherit some of the deceased partner's property/assets. However, even if you register your domestic partnership, to make sure that your partner receives all or some of your assets when you die, you still should have a will. A will is a legal document that explains who you want to get your property when you die and how and when they will receive it.
- **Right to bring certain lawsuits** – If your domestic partner is killed because of someone else's wrongful conduct, you have the right to sue whomever you believe to be responsible for his/her wrongful death. In this type of lawsuit you can try to seek compensation for lost financial support and companionship.
- **Right to be buried with your domestic partner** – You and your partner have the right to be buried in a burial plot together if the plot has more than one space.
- **Rights as an employee of the State of Washington** – If you are employed by the State of Washington, or if you work for a participating school district and you receive health benefits from the Public Employees Benefit Board (PEBB), your partner qualifies for same-sex domestic partner health benefits.

## How do we register?

You can register with the Secretary of State's office. Both of you must sign a "Declaration of State Registered Domestic Partnership" form, in front of a public notary, and mail the signed and notarized form with the \$50.00 filing fee to the Office of the Secretary of State, Corporations Division, P.O. Box 40234, Olympia, WA 98504. You can also take your forms to the Secretary of State's Office, Corporations Division, 801 Capitol Way South, Olympia.

These forms are available from the Secretary of State's office in Olympia. You can also get the forms on the Secretary of State's website ([www.secstate.wa.gov](http://www.secstate.wa.gov)) and from county clerks' offices.

## **If we register as domestic partners, do we need to take any additional steps to protect our relationship?**

Yes. We strongly urge you and your partner to prepare important legal documents such as a will, durable power of attorney and health care directive even if you decide to register as domestic partners. These documents are the best way to ensure that health care providers know your wishes and honor them, that your property will be distributed to whom you would like when you die and that your partner has the ability to make health care decisions for you in the event that you're incapacitated and can't make these decisions yourself. Additionally, you should always carry these documents with you when you travel outside of Washington to ensure that you and your partner's wishes will be honored.

**NOTE:** If you are in a domestic partnership and you have a pre-existing will that you prepared before you and your partner registered, you must modify the will if you want to change who will receive your property upon your death. For example, if you have a will that gives your home to your sister, Josephine and you subsequently enter into a domestic partnership with Bill, unless you change your will, your home will go to your sister Josephine, not to your partner Bill upon your death.

## **Are there any reasons we shouldn't register as domestic partners?**

Yes, there may be reasons why you would not want to register based upon your situation. You should know that registering as domestic partners could result in the following:

- affect your eligibility for public assistance;
- harm you if you are a member of the military. It is possible that the federal government could consider registering your domestic partnership as a violation of the military's "Don't Ask Don't Tell" policy;
- have negative immigration consequences if one of you is undocumented. You should consult with an immigration attorney before registering your domestic partnership.
- affect your ability to adopt from a state or country that doesn't approve of adoptions by same-sex couples.

## **My partner and I got married in Massachusetts. Do we still need to register?**

Yes. Under current law, the State of Washington will not recognize marriages entered into by same-sex couples in other states and countries. Therefore, you must still register in Washington to receive the protections provided by the Washington State law.

**If my partner and I entered into a civil union or a domestic partnership in another state, do we still need to register as domestic partners in Washington?**

Yes. Even if you entered into a civil union or a domestic partnership in another state, you must still register in Washington to receive the protections provided by the Washington State law.

**We're registered as domestic partners with the City of Seattle. Do we still need to register with the State if we want the protections offered by the new law?**

If you want to be able to get the protections offered by the state law, you must register your domestic partnership with the Secretary of State's office. You may still want to register your partnership with the City, however, to take advantage of possible benefits from your employer that are not provided by the state law.

**Will other states recognize us as domestic partners?**

Because this law is so new, we do not know which states, if any, will recognize and respect your legal status as domestic partners. Because of this, it is important that you and your partner each prepare wills, health care directives, durable powers of attorney and other legal documents and that you take them with you so that you are protected when you travel outside of Washington.

**What if we end our relationship? Do we need to do something to terminate our domestic partnership?**

Yes. If you and your partner decide to end your relationship, you must file a "Notice of Termination of State Registered Domestic Partnerships" with the Washington State Secretary of State's office. You can get this form from the Secretary of State's Office, Corporations Division, 801 Capitol Way South, Olympia. You can also get this form on the Secretary of State's website ([www.secstate.wa.gov](http://www.secstate.wa.gov)) and from county clerks' offices.

You both must sign this form in front of a notary and then mail it to the Office of the Secretary of State along with a required fee (the amount has not been set yet).

If you cannot obtain your partners' signature on the notice of termination, the partner who wants to end the domestic partnership must, in addition to filing the termination notice, file an affidavit stating that the other partner received a copy of the notice of termination through one of the same methods required for proper service of notice of a lawsuit. You should talk with an attorney about how to do this or you can call our legal information and referral line.

Your domestic partnership will be terminated 90 days after you file the notice and pay the filing fee. You will receive a certificate of termination from the Secretary of State's office.

**Is there anything else we should do if we end our relationship?**

Yes. Once you've terminated your domestic partnership, you and your partner will no longer have the rights granted under this new law. In addition to filing the domestic partnership termination notice, you should also be sure to update and change any of the other legal documents that you've prepared. For example, if you prepared a health care directive while you and your partner were together and you named your partner as the person who could make health

care decisions for you, he or she will still have the ability to make those decisions unless you specifically change those legal documents.

Additional questions? Please call our Legal Information and Referral Line for referrals.