PARENTAL RIGHTS

Q: How does the law affect parental rights?
A: It is unclear at this time. Parental rights and obligations of domestic partners "are the same as those of spouses" according to S.B. 283. Under Nevada law, a child born into a marriage is presumed to be the child of the husband and wife, but it is unclear how this will apply to same-sex couples. Same-sex couples are encouraged to do a step-parent adoption to ensure that both parents are treated as the child’s legal parents.

Q: Can we end a domestic partnership if we don’t live in Nevada?
A: The answer is unclear. Nevada has a six-week residency requirement for ending a marriage. Couples who are married in Nevada who have moved to another state must seek a divorce in their new state; and a couple who married in another state and moves to Nevada must wait six weeks to file for divorce. Because Nevada’s domestic partnership laws treat domestic partners the same as married couples, it is likely that the six-week residency requirement will apply to domestic partners as well. It is unclear whether the six-week residency requirement applies to the simplified one-page Notice of Termination process.

A couple domestically partnered in Nevada that has moved to another state could try to file for termination in that state. However, the court in that state could refuse to recognize the relationship and refuse to grant a termination. This puts domestic partners living outside Nevada in a difficult situation because they are legally partnered in a state where they do not reside, but are unable to terminate the relationship in the state where they do reside.

Q: Could I be required to support my ex or pay child support if we break up?
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Q: What is a domestic partnership?
A: The domestic partnership registry allows same-sex and opposite-sex couples to register with the Secretary of State’s Office and receive the same state legal protections for their relationships as married couples. A domestic partnership should be treated like a marriage under Nevada law, meaning that state property laws, family laws, probate laws and any other state law that applies to a married couple, would also apply to domestic partners.

Q: Who is eligible to register?
A: Nevada’s domestic partnership registry is available to same-sex and opposite-sex couples. In order to register as domestic partners, both partners must:
- Be over 18 years old;
- Not be related by blood in a way that would prevent marriage (not nearer than second cousins); and
- Be competent to consent to the partnership.

Q: Do we have to live in Nevada to register?
A: No. You do not have to live in Nevada or even visit Nevada to register.

Q: How do we enter into a domestic partnership?
A: Individuals wishing to register as domestic partners must file a one-page Domestic Partnership Declaration Registration Form with the Nevada Secretary of State’s Office. The form must be filled out completely and the signatures of each partner notarized separately. The completed form and registration fees must either be mailed to, or dropped off at, the Secretary of State’s office in Las Vegas or Carson City.

The Secretary of State’s Office also provides expedited processing, which guarantees couples their certificate on the same day. This service is available by appointment only and subject to an additional fee.

Q: What do we have to do to be eligible?
A: To register as domestic partners in Nevada, neither partner can be married or partnered to anyone in any state other than the person they are seeking a Nevada Domestic Partnership with.

Q: Will our domestic partnership be recognized in another state?
A: Yes and no. Even if you don’t live in Nevada or if you move to another state, you and your partner will still be registered domestic partners in Nevada. The more difficult question is whether federal and other state governments and local entities will recognize your domestic partnership. A Nevada domestic partnership will not be recognized by the federal government as a marriage. A Nevada domestic partnership may or may not be recognized by other states. Individual states can choose whether to recognize such relationships, and how much or how little protections to offer. You will have to check with each state to determine whether your Nevada domestic partnership will be recognized and what rights will be granted.

Q: What legal rights and obligations do we receive?
A: It would be impossible to list all the legal protections and obligations afforded to domestic partners; however the following list provides a sample of some of the important benefits and responsibilities.

Under Nevada law, domestic partners have the right to:
- Hold property as community property (there is a legal presumption that any property acquired during the partnership belongs equally to both of you, regardless of who paid for it or who holds title);
- Share the property acquired during the partnership (regardless of who paid for it or who holds title);
- Receive a portion of your partner’s property if he or she dies without a will;
- Visit your partner in the hospital;
- Make medical decisions if your partner becomes incapacitated;
- Sue for the wrongful death of your partner;
- Not testify against your partner in court; and
- Use of step-parent adoption procedures to adopt a partner’s child.

Domestic partners are responsible for:
- A partner can receive a share of the property acquired during the partnership, regardless of who paid for it or who holds title;
- A partner can receive a portion of the debt assumed during the partnership, regardless of whether the debt is in your name or your partner’s name.

Upon dissolution of the partnership:
- A partner can receive a share of the property acquired during the partnership, regardless of who paid for it or who holds title;
- A portion (usually half) of the debt assumed during the partnership, regardless of who paid for it or who holds title;
- A partner can receive a share of the property acquired during the partnership, regardless of who paid for it or who holds title;
- A partner can receive a portion of the debt assumed during the partnership, regardless of whether the debt is

Q: What legal rights and obligations do we have to provide benefits to my domestic partner?
A: It depends. A private employer in Nevada is not required to provide health care benefits for the domestic partner of an officer or employee. However, an employer is not prohibited from providing such benefits. Public employees who participate in the Public Employee Benefits Program and who have registered domestic partners (same sex or opposite sex) are required to be offered the same premium subsidy as married public employees in the system. Also, many private businesses and public agencies already provide benefits to domestic partners.

Q: Are there any rights we don’t receive?
A: The Nevada domestic partnership law does not, and cannot, give domestic partners all the rights and responsibilities of marriage. In 1996, the federal government passed the Defense of Marriage Act (‘DOMA’) which defines marriage as a legal union between one man and one woman for purposes of all federal laws. DOMA allows the federal government to refuse to recognize same-sex unions and deny them any of the federal benefits provided to married couples. DOMA also allows the states to refuse to recognize same-sex unions.

Nevada’s domestic partnership law does not give same-sex couples any of the thousand or more rights and benefits that the federal government gives to married couples, including the right:
- Sponsor a partner for immigration purposes;
- Family-related Social Security benefits;
- Federal income and estate tax breaks; and
- File federal income taxes as a married couple.

Right now, the federal government won’t let states extend these federal benefits to any same-sex couple. In addition, if you enter into a Nevada domestic partnership, many of the state law protections you have in Nevada may not exist when you are outside the state. For instance, if you or your partner is injured in another state, you may not be allowed hospital visitation or the right to make emergency medical decisions on behalf of your partner. It will depend on the laws in that state.

Q: Are there any rights we don’t receive?
A: No. The military’s ban on openly gay, lesbian and bisexual service members is a federal law and is unaffected by state law allowing domestic partnership. Under the military’s ban, even attempting to enter a domestic partnership with someone of the same sex is grounds for discharge.

Q: If I enter into a domestic partnership, can I sponsor my same-sex spouse for U.S. citizenship?
A: No. Under the Defense of Marriage Act, only different-sex couples’ marriages are recognized under federal law, including for the purposes of immigration.