

Domestic Partnerships in Wisconsin

Understanding the Two Types of Domestic Partnerships

In August 2009, The Wisconsin Legislature enacted 2009 Wisconsin Act 28, creating an entirely new status for couples: **domestic partnership**.

The law created two new statutory relationships and called them both domestic partnerships. One set of statutes, found at Chapter 40 of the Wisconsin statutes, applies to a couple in which one or both partners work for the state of Wisconsin or a local government that participates in the State of Wisconsin Department of Employee Trust Funds (ETF). The other set of statutes, found at Chapter 770, applies to same-sex couples.

There are a few similarities between the two types of domestic partnerships, but they each provide different types of benefits. If you are a state or local government employee AND you are in a same-sex non-marital relationship, you might be eligible for benefits described under BOTH forms of domestic partnership. However, a couple who qualifies for one form does not automatically qualify for the other.

Chapter 40 – Domestic Partnership

Domestic Partnership under Chapter 40 (also called a limited purpose domestic partnership or Chapter 40 Domestic Partnership) applies to a couple who shares a home, considers each other as immediate family, and agrees to be responsible for each other's basic living expenses. The couple can be a same-sex or opposite-sex couple.

The ETF administers the application process and coordinates the benefits described in Chapter 40. Couples who meet the Chapter 40 domestic partnership requirements might be eligible to receive the following benefits:

- Survivor benefits under the Wisconsin Retirement System
- Health insurance coverage for a partner and a partner's child and, in some instances, continuation coverage after the employee's death
- Duty-disability benefits to a surviving partner
- Life-insurance proceeds and conversion rights for a surviving partner

For more information, see Domestic Partner Benefits on the ETF website:

http://eft.wi.gov/publications/domestic_partners.htm

Chapter 770 – Registered (Same-Sex) Domestic Partnership

Domestic Partnership under Chapter 770 is available only to same-sex couples who share a home. There is no requirement that the couple agrees to be responsible for each other's basic living expenses. The registration process is carried out by local county clerks in the 72 counties of Wisconsin.

While the definition of same-sex domestic partnerships and the registration process is described by Chapter 770, the effects and benefits are scattered throughout other statutes, with the most extensive changes affecting probate and property rights of domestic partners.

The following scenarios are just a few examples of benefits to same-sex domestic partners:

- If a surviving registered partner is excluded from the deceased partner's Will, the surviving partner might be entitled to receive the home and some or all the personal property of the deceased partner, even if the deceased partner's Will was signed before the couple registered as domestic partners.
- If the deceased partner died without a Will and did not have any children, the surviving partner could receive all of the deceased partner's probate property.

What Domestic Partnership Does Not Do

The rights and responsibilities of domestic partners are significant but limited. For example, unlike the obligations that come with marriage, domestic partners have no legal obligation to provide financial support during the relationship or upon termination.

Additionally, the rights and responsibilities shared by domestic partners dissolve immediately upon formal termination of the domestic partnership. This is unlike the rights and responsibilities shared by a married couple, who remain obligated to divide property at divorce and potentially provide for support of an ex-spouse. The division of property of a non-marital couple is still governed by remedies found in the court cases that follow *Watts v. Watts*, 137 Wis.2d 506, 405 N.W.2d 303 (1987), a case that established the framework for fairly dividing property when the relationship of an unmarried couple dissolves and property was acquired during the relationship.

Things to Consider

1. Be sure you understand the advantages and disadvantages of domestic partner registration.
2. Review your estate plan to determine the effect of registration on your current plan and make changes to your plan.
3. Be sure you understand the effect of termination of domestic partnership on your estate planning documents (such as your Will, beneficiary forms, Powers of Attorney, and property you co-own (such as joint tenancies).

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