

# Making it Legal

## Essential Arrangements for Same-Sex Couples

By Frederick Hertz

It's been well established that a great many public benefits and powerful and dramatic social changes would result from allowing same-sex couples to legally marry. One of the least recognized "benefits" of legal marriage, however, is that it comes with a pre-packaged set of legal rights and obligations. While couples are free to opt out of many of these legal arrangements, the basic framework of duties and benefits has been written by the legislature—and they go into effect immediately after the saying of "I do." No need for anyone to meet with an attorney or negotiate a detail agreement, which is a great convenience for most couples.

either of you work for a company offering domestic partner benefits, you should first evaluate whether domestic partnership registration makes sense from a financial perspective. For example, health insurance payments for a domestic partner are taxable for the employee, which can reduce the financial value of domestic partnership insurance coverage. If you do find it valuable, then first you will need to register, and then you can determine which benefits you are eligible for and submit the requisite applications.

If you find that there aren't any real financial benefits of registration but you still want to enjoy the formal recognition by your city or

in most states private contracts regarding child-rearing are not entirely enforceable by the courts. I still recommend that you draw up such an agreement, as the process of writing up such an agreement is usually very beneficial to both of you. It will force you to discuss your true intentions and your deepest fears and desires, and motivate you to resolve these issues early on in your relationship.

### Yours, Mine or Ours

Whether you're rich or poor, and whether you are a renter or a homeowner, you are bound to have some assets (and maybe some debts) which need to be categorized as

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Unfortunately, except for those Vermonters who are able to register for a civil union, a formal wedding ceremony—even a religious one—does not by itself bestow any legal rights or obligations on the couple. In order for your new relationship to have legal standing, some real work needs to be done by the two of you. Face it, this will be a more difficult and more expensive process than you wish.

But what might appear to be a tedious chore can actually bring the two of you closer together as you talk out your legal and financial concerns and strive to formulate your agreements. At the end of the process, you'll actually feel more empowered and more closely connected to one another than most hetero married couples.

### The Benefits of Benefits

If you live in a town or a state which authorizes domestic partnership registration, or if

your company, by all means register as domestic partners!

### For the Children

If you are contemplating adopting a child, or if one of you already has a child from prior to the relationship, it's essential that you begin by figuring out who is going to be the legal parent. If it is allowed in your particular state, seriously consider whether you want to apply for a second-parent adoption, as this is the best way to fully protect both parents and your child. The process can take several months, and you will probably need the assistance of a local attorney experienced in handling these matters.

If only one of you is going to be the legal parent, you should nonetheless sign guardianship forms and medical authorizations, which will allow the non-legal parent to have some authority in case of an emergency.

"yours, mine or ours." The basic legal rule in nearly every state is that whoever's name is on the title, lease or account owns the asset, and anything held officially in both names is presumed to be owned by both of you.

If these presumptions aren't correct as to any particular asset or debt, you will need an agreement clarifying your respective rights. If you don't feel you need a formal agreement, be careful that you put the appropriate names on credit cards, bank accounts, car titles and lease agreements, so you don't create a "paper trail" which is at odds with the financial realities of your relationship.

You should also have an open discussion of whether or not you are going to share your incomes and expenses; some couples keep their finances separate, others pool everything, and some share certain household expenses but keep their other spending separate. There is no right or wrong here; what is

important is that you confront the financial and emotional issues openly and you do what is comfortable for *both* of you. As part of this discussion, you should acknowledge that once either of you makes a financial gift to the other one, that gift can never be recaptured, even if the love or commitment dissipates.

### Illness, Disability or Death

This happens to the best of us, often when we least expect it. It's critical that every same-sex couple sign powers of attorney (both for financial matters and health care decisions) and draft up either a will or a trust. Powers of attorney can either be in effect from the outset, or can come into effect when one person is ill or unconscious. Your will or trust determines what happens to your property upon your death, and in most states can also cover the issue of funeral arrangements.

Since you may not have any warning of injury or sudden death, it's important that you take care of these affairs while you are healthy. If you haven't signed these critical documents ahead of time, your partner may be totally disenfranchised if there's an accident or sudden illness—especially if your next of kin is not supportive of your relationship.

### The Gay Divorcee

Lots of folks are clamoring for legalizing gay marriage—I, instead, wish we had the right to an expedited "gay divorce!" Because the rules in most states are so vague and because the family law courts won't take on same-sex dissolutions, for the most part we are left to our own agreements on these vital matters. And, since there's a serious chance your relationship will go asunder—despite the best of intentions—it's essential that you do some pre-dissolution planning. Take my word for it, talking about this stuff *won't* cause a split.

The key items for you to deal with are (1) who gets what assets and who handles what debts, in case of a break-up; (2) whether either of you is entitled to post-separation financial support, and if so, how much and for how long (palimony); and (3) whether you'll agree now that you will resolve your disputes through mediation and/or arbitration, in case of a subsequent conflict. If you have any significant assets or if either of you is making any serious promises of long-term support, it's essential that you put your agreement in writing—oral agreements are far too vague and hard to prove, in case of a subsequent dissolution.

Remember that preparing for the *future* will ensure a more stable and fulfilling *present* for both of you. **H**

# An Invitation

THE ART OF A GOOD INVITE

An invitation is the first thing that represents your wedding, and it will set the tone for how others perceive your ceremony (and possibly your commitment to each other, if they don't know you very well). A hastily designed, bland, or shabby invitation (or, God forbid, flyer or e-mail) can indicate a lack of thought or importance, while a classy or clever invitation can get guests revved up for both the event and your and your partner's lives together.

In his stunning book *Invitations* (available at [heromag.com](http://heromag.com)), Marc Friedland says, "An invitation printed on white paper with black ink that states the facts and figures of time, date, and place is perfectly adequate. However, when the vocabulary or communication combines words, colors, textures, images, and materials, something magical happens." Exploring color, texture, images, and materials is how you'll create something unforgettable and undeniably you. Stars like Oprah Winfrey and Steven Spielberg turn to Friedland when they need an invite—*Invitations* is a great source of inspiration for your own invites.

As you would with a florist or cake decorator, visit a stationery store or paperie and look at past examples of their work. Get ideas, then get creative. Find ways to incorporate elements from your lives into your invitation to reflect who you and your partner are as a couple, your personalities, and also the personality of the wedding. If you're getting married on the beach, include sand inside the envelope. If you're going to Paris on your honeymoon, use a faint silhouette of the Eiffel tower behind the text. If one of you loves Broadway and you're getting married on a local stage, let the invitation resemble a theater ticket.

If classy and understated is more your style, choose good, heavy paper stock and a classic font. Remember envelopes are part of the invite, too. If you're having a big party at the bar where you met, roll up your invitations and mail them inside a clean beer bottle. Don't be afraid to push the envelope, so to speak. Commitment ceremonies are cavalier in and of themselves; let the invitation celebrate who you are.

