

Price & Farrington's Estate and Tax Planning FastFacts

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Estate, Tax, Retirement and Family Wealth Planning for Advisors+ Clients

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Flash! New Washington Domestic Partnership Act Just Signed Into Law

On Wednesday, March 12, Governor Christine Gregoire signed into law a measure that will grant unmarried domestic partners in Washington more than 170 of the benefits and responsibilities currently given to married couples (HB 3104). The law adds the phrase “*domestic partners*” to sections of many laws where previously only spouses were mentioned, including areas associated with probate and trusts, community property and homestead exemptions, and guardianship and powers of attorney. The law takes effect on June 12 of this year.

Background. The underlying domestic partnership law, passed last year, already provides *hospital visitation rights*, the ability to grant *informed consent for health care* for a patient/partner who is not competent, automatic termination of *power of attorney* upon termination of the partnership, the ability to *authorize an autopsy* and *organ donation*, and *inheritance rights* when there is no will [See our May 2007 FastFacts: Washington's New Domestic Partnership Law: Estate Planning Opportunities

at www.pricefarrington.com]. Since the law took effect last year, more than 3,500 couples have registered with the state as domestic partners.

Summary. The new measure makes dozens of changes to state law, including requiring *domestic partners of public officials* to submit financial disclosure forms, just as the spouses of heterosexual officials do. It would give domestic partners the same *spousal testimony rights* that married couples have, allowing domestic partners the right to refuse to testify against each other in court. The process of *ending a domestic partnership* will change, allowing the secretary of state to end partnerships only in the first five years, with several more restrictions relating to *children, real property* or *unpaid debts*. All other partnerships would be dissolved in superior court, similar to conventional divorce.

To be registered, domestic partners must share a home, must not be married or in a domestic partnership relationship with someone else, and be at least 18 years old.

Unmarried heterosexual senior couples also are eligible for domestic partnership if one partner is at least 62. This provision is intended to help seniors who are at risk of losing pension rights and social security benefits if they marry.

The new Act. The following is a list of the broad categories covered in the new domestic partnership act and a summary description of some of the changes made in each category:

Dissolution, Parenting Plans, Child Support.

☑ Procedures for dissolution apply to domestic partners.

☑ Child support, maintenance and parenting plan obligations, and pro-



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cedures for enforcing such orders apply to domestic partnerships.

Community Property and Other Property Rights.

☑ Property of domestic partners is subject to community property.

☑ A domestic partner's property is obligated to pay family expenses and children's education.

☑ The slayer statute prohibits inheritance by the domestic partner perpetrator.

☑ Homestead rights for the surviving spouse may consist of property owned by domestic partners.

Judicial Process and Victim's Rights.

☑ A domestic partner may sue on behalf of the community, and contributory fault of a domestic partner is not imputed to the other domestic partner in civil actions.

☑ Testimonial privilege for spouses in legal actions applies to domestic partners.

☑ A domestic partner is a “family or household member” for



“Mr. Frosty, it's March. Time to talk estate planning.”

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purpose of domestic violence laws.

Taxes.

☑ Property assigned from one domestic partner to another under a dissolution decree is exempt from real estate excise tax.

☑ Property tax deferrals for eligible persons, such as senior citizens meeting certain criteria, extend to the person’s surviving domestic partner.

Public Officials.

☑ Appointed and elected officials must disclose financial affairs of domestic partners.

☑ Gifts received by an elected official’s domestic partner are subject to public disclosure reporting requirements.

☑ A domestic partner of an elected official may not be a member of the State Commission on Salaries.

Public Assistance.

☑ The Department of Social and Health Services (DSHS) must consider hardship to a person’s domestic partner to the same extent it is considered for spouses when filing a lien against a person’s property as reimbursement for receiving medical assistance.

☑ Domestic partners who are residents in long-term care facilities or nursing homes may share the same room.

☑ An abused same-sex domestic partner is considered a “victim” for purposes of services provided by domestic violence

shelters.

Veterans.

☑ State colleges and universities shall waive tuition for domestic partners of deceased or disabled veterans if certain conditions are met.

☑ Services for honorably discharged indigent veterans, such as residency in a veterans home, are available to veterans’ domestic partners.

Guardianship and Powers of Attorney.

☑ Procedures under guardianship laws, including who is entitled to notice, apply to domestic partners of incapacitated persons.

☑ Domestic partners may file a petition to determine the effectiveness of a power of attorney, receive an accounting, and request other information from the power of attorney.

Probate and Trust Law.

☑ A domestic partner not named in a will that was created before registration of the domestic partnership is omitted for purposes of intestate succession.

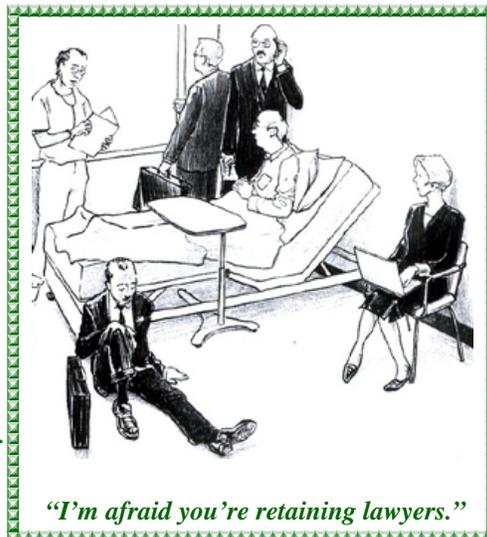
☑ Letters Testamentary (issued by the court during probate after it approves the deceased’s will) go to the surviving domestic partner to administer community property.

☑ Procedures under probate involving the transfer of community property apply to domestic partners.

☑ The court may award amounts from the decedent’s estate to the surviving domestic partner for purposes of family support, and the award is exempt from creditors.

Notice to Registered Domestic Partners.

Sixty days, and again thirty days, before the effective date of the act, the Secretary of State must send a letter to the mailing address of each registered domestic partner notifying him or her that Washington laws will change. The letter must state that those persons who do not wish to be subject to the new rights and responsibilities must terminate their domestic partnership before the effective date of the act.



Termination of Domestic Partnerships.

A domestic partner must file a petition for dissolution in superior court and follow the same procedures that apply to dissolution of marriages. Parties may use a *nonjudicial termination process* by filing a notice of termination with the Secretary if certain conditions exist at the time of filing the notice. These include, among other requirements: (a) neither party has minor children; (b) the domestic partnership is not more than five years in duration; (c) neither party has any ownership interest in real property; (d) the total net fair market value of community property assets is less than \$25,000 and neither party has separate property assets in excess of \$25,000 (adjusted for inflation).

Final thought. This act does not amend the Washington marriage statutes and does not eliminate the Defense of Marriage Act. It’s goal is that “domestic partners should be treated with the same respect and fairness as married couples.”

GDJ

Family Thoughts
☪
Allow children to be happy in their own way, for what better way will they ever find?
Dr. Samuel Johnson, letter, 1780
Don't limit a child to your own learning, for he was born in another time.
Rabbinic Saying
The affection of a father and a son are different: the father loves the person of the son; the son loves the memory of his father.
Anonymous, early 18th C.

