



The California Domestic Partnership Law (AB 205)
What it Means for You and Your Family

AB205

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A Message from Kate Kendell and Geoff Kors

The purpose of this publication is to provide information about California's domestic partnership law to couples who are registered as domestic partners with the State of California or who are considering doing so. AB 205, the Domestic Partner Rights and Responsibilities Act, was authored by Assemblymember Jackie Goldberg, co-authored by the LGBT Caucus of the California Legislature, and sponsored by Equality California. It was enacted in 2003 and became fully operative in 2005. As explained in this publication, this historic legislation provides registered domestic partners with most of the rights and responsibilities given to spouses under California law.

AB 205 was the culmination of decades of hard work and courageous leadership by LGBT elected officials and allies, by LGBT and ally organizations and advocates, and by the countless LGBT individuals who have braved the risks of coming out to their families, coworkers, neighbors and friends. As a result of those efforts, California is now second only to Massachusetts, which permits same-sex couples to marry, in providing same-sex couples with equal dignity and legal protections.

This legislation was necessary due to California's discriminatory marriage laws, which currently are being challenged as unconstitutional in state court. It is a critical step on the march to full equality. As two of the organizations leading the legislation and litigation on marriage and other family rights, EQCA and NCLR are committed to ensuring true equality for LGBT people, working in coalition with many other groups.

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Introduction

This document explains who can register as domestic partners, how to register, how to dissolve a partnership, and what rights, benefits, protections and responsibilities will be provided to registered domestic partners in California.

As of January 1, 2005, registered domestic partners in California are provided with most of the rights and responsibilities of married couples under California law. However, registered domestic partners still do not receive any of the 1,138 rights and benefits of married couples under federal law. Registered domestic partners also continue to have less security than married couples when they travel or move outside of California.

Major areas in which the rights and responsibilities of registered domestic partner have changed under the new law, effective January 1, 2005, include:

- Creating and dissolving registered domestic partnerships
- Community property and financial obligations
- Parental rights and responsibilities
- Public benefits
- Health care and end of life issues

For more information contact the National Center for Lesbian Rights or Equality California.

Couples who should be particularly cautious before registering:

Because the federal government does not recognize domestic partnerships, there are several groups of people who should be particularly careful before deciding to register as domestic partners. These include:

- Binational couples (in which one of the partners is not a United States citizen and is in the United States either without documentation or on a non-immigrant visa);
- Couples in which one or both of the partners are receiving benefits, such as SSI or Medi-Cal; and
- Couples where one or both partners are in the military.

For couples and individuals in this situation, it is highly advisable to **consult legal counsel** before deciding to register as domestic partners.

General Questions About AB 205

What is AB 205?

AB 205 — which is short for Assembly Bill 205 — is the California Domestic Partner Rights and Responsibilities Act of 2003. This law was authored by Assemblymember Jackie Goldberg and sponsored by Equality California.

The substantive provisions of AB 205 went into effect on January 1, 2005. From that date forward, “[r]egistered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under [California state] law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses.” Cal. Fam. Code § 297.5(a). Registered domestic partners still are denied all of the 1,138 federal rights and responsibilities given to heterosexual married couples and have less security than heterosexual married couples if they travel or move out of state.

Which laws are affected by AB 205?

AB 205 affects almost every *California* law, regulation, court rule, or court decision that provides rights and responsibilities to spouses. The primary exceptions are: (1) the means of entering and exiting registered domestic partnerships will be different than those for entering and existing marriages; (2) registered domestic partners will continue to pay their state taxes as single (rather than married) people; and (3) AB 205 does not affect statutes or constitutional provisions that were enacted through the initiative process.

This publication provides a general overview of the hundreds of new rights and responsibilities that are now provided to registered domestic partners as a result of AB 205. Because laws and legal procedures are subject to frequent change and differing interpretations, NCLR and EQCA cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency.

Questions About Registering as Domestic Partners

Who is eligible to register as domestic partners?

You must meet the following criteria to register as domestic partners:

- Both persons have a common residence;¹
- Neither person is married to someone else or in a domestic partnership with someone else;²
- The two persons are not related by blood in a way that would prevent them from being married to each other in California;
- Both persons are at least 18 years of age;
- Both persons are capable of consenting to the domestic partnership;

And either:

- Both persons are members of the same sex; or
- One or both of the persons are over the age of 62.

How do we register as domestic partners with the State of California?

To register, download the declaration of domestic partnership form at <http://www.ss.ca.gov/dpreistry/> or pick up the domestic partnership form at any local county registrar's office or at any office of the California Secretary of State.

Both parties must sign the form in the presence of a notary and have the form notarized. You then mail the signed, notarized form to the Secretary of State along with the \$10 fee. A list of notaries in your area can be found by consulting the yellow pages under "Notaries Public."

¹ "Have a common residence' means that both domestic partners share the same residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return." Cal. Fam. Code § 297(c).

² This requirement clarifies the eligibility requirements for entering into a registered domestic partnership. Prior to January 1, 2005, the law provided: "Neither person is married or a member of another domestic partnership." AB 205 makes absolutely clear that a person is eligible to register as a domestic partner even if he or she is also married to the same person.

In addition to clarifying this point, AB 205 eliminates the prior requirement that "[b]oth persons agree to be jointly responsible for each other's basic living expenses incurred during the domestic partnership." Fam. Code § 297(b)(2) (effective until January 1, 2005). This provision was removed because registered domestic partners will be legally responsible for each other in the same way that spouses are so there was no longer a need to state this as an eligibility requirement.

In signing the form, you must provide your mailing address and you must attest that:

- You meet the requirements of domestic partners, listed above;
 - You agree to have your case heard in a California court if you need to go to court for a separation or dissolution of your partnership, even if one or both of you no longer reside in California;³
- and
- The representations made on the form are true, correct, and contain no material omissions of fact to the best of your knowledge and belief.

Filing an intentionally and materially false Declaration of Domestic Partnership is punishable as a misdemeanor.

If my partner and I registered as domestic partners prior to January 1, 2005 with the state of California, do we need to re-register?

No. Couples who registered as domestic partners prior to January 1, 2005 automatically gained the new rights and responsibilities provided by AB 205. In other words, if you did not terminate your relationship prior to January 1, 2005, you are now subject to the new rights and responsibilities of AB 205.

Note, however, that being registered with a county or city, or with your employer, does NOT mean that you are registered domestic partners with the State of California. You are only entitled to the legal benefits and protections of the state domestic partnership law if you have registered as domestic partners with the Secretary of State.

It is important that all currently registered domestic partners have their current address updated with the Secretary of State. If you have moved since you and your partner registered as domestic partner with the state of California, you should update your address on-line at: www.ss.ca.gov/cgi-bin/dp.cgi?to=addr.

Do my partner and I both need to be residents of California to register as domestic partners with the state of California?

No. It is not necessary for you or your partner to be legal residents of California to register as domestic partners with the state of California. However, while NCLR and EQCA believe that other jurisdictions should respect a domestic partner registration from California, there is no guarantee this will be the case. Accordingly, even if you are registered as domestic partners in California, you should take whatever other steps are available to you to protect your relationship in your home state.

³This requirement – of consenting to the jurisdiction of California courts for purposes of a dissolution or similar proceeding – is a new requirement added by AB 205. The reason this provision was added was to ensure that couples who never did or who no longer reside in California would have at least one jurisdiction in which to dissolve their domestic partnership, should their state of domicile refuse to provide a legal forum for doing so.

If I am registered as a domestic partner in another state, do I need to reregister in California?

AB 205 provides that a legal union of two persons of the same sex, other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership as defined in California, will be recognized as a valid domestic partnership. This is true regardless of whether it is called a “domestic partnership,” “civil union,” or some other name. To ensure that you are protected, however, it may be advisable to register as domestic partners in California, even if you already are registered with another state.

Will other states or the federal government respect our domestic partnership status?

As noted above, there are 1,138 federal rights and protections that are given only to legally married spouses. Accordingly, the federal government will not respect your domestic partnership because domestic partnership is not marriage. This is one of the reasons that domestic partnership is not equal to marriage and does not provide adequate protection for our families.

We are hopeful that other states will honor your domestic partnership. Depending on the law of each state, however, it is possible that public and private entities in other states will not respect your domestic partnership status. In some states, where the law is extremely hostile to lesbian and gay couples, this is almost certain to be the case. For this reason, it is extremely important that you and your partner have wills, powers of attorney for health care and finance, and a written agreement about how you will divide your assets if you separate, and – for couples with children – that you obtain an adoption or parentage decree or take whatever other steps are available in your state to protect your children.

Sample forms can be accessed in NCLR’s Life Lines publication, which is available at: <http://www.nclrights.org/publications/lifelines.htm>.

Terminating a Domestic Partnership

How do I terminate my domestic partnership?

In most cases, couples wishing to terminate their registered domestic partnership will be required to go through a court dissolution proceeding, just as most heterosexual married couples must do to terminate their marriage. This is an area of significant change. Prior to January 1, 2005, registered domestic partners could terminate their relationships simply by mailing in a form to the Secretary of State's Office.

There is a small subset of people who may be able to terminate their domestic partnership without court approval. You are only eligible to use this process if you and your partner meet all of the following requirements:

- You have no children together, and neither of the domestic partners, to their knowledge, is pregnant;
- You have been registered domestic partners for five years or less;
- Neither party has any interest in real property, in California or elsewhere, except in the lease of the residence where either of you lives (as long as the lease does not include an option to purchase and ends within one year from the date that you file the Notice of Termination of Domestic Partnership);
- You and your partner do not have any debts (excluding automobile debts) that either or both of you incurred after you registered as domestic partners totaling more than approximately \$4,000;
- You and your partner do not have assets (excluding automobiles and encumbrances) totaling more than approximately \$32,000 and you and your partner have executed an agreement that lists how the assets and/or debts will be divided;
- Both you and your partner have executed an agreement setting forth how you are going to divide your assets and the liabilities of the community property, and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement;
- Both you and your partner waive any rights to support from the other;
- Both you and your partner have read and understood a brochure prepared by the Secretary of State describing the requirements for terminating a domestic partnership;

and

- Both you and your partner wish to terminate your domestic partnership.

People who fulfill **all** of the above requirements can terminate their domestic partnership by filing the Notice of Termination of Domestic Partnership with the Secretary of State. In these circumstances, the domestic partnership shall be terminated effective six months after the filing of the termination form

with the Secretary of State. The effect of termination of a domestic partnership by this means shall be the same as the entry of a judgment of dissolution of a domestic partnership.

For most people, however, as mentioned above, it will be necessary to go through a court proceeding to terminate a registered domestic partnership. In this proceeding, the court will separate the parties' assets and make custody determinations for couples with children, as well as determine whether child and spousal support are required.

How do we terminate our domestic partnership if we no longer live in California?

In order to register as domestic partners in California, individuals now must agree to allow California courts to have jurisdiction over dissolution and other proceedings regarding their domestic partner status. Therefore, you will be able to terminate your domestic partnership in California even if you do not live in California. If you are in this situation, we encourage you to consult an attorney knowledgeable about LGBT issues in the state where you live, to determine whether you should terminate your domestic partnership where you live or whether you should return to California to do so.

Questions Regarding Bi-National Couples

**I am a U.S. citizen, but my partner is not. Can we register as domestic partners?
If we do, can I petition for my partner to become a legal resident?**

You can register as domestic partners regardless of either partner's immigration status. Unfortunately, however, doing so will **not** allow you to sponsor your partner for permanent residence. In addition, for some non-U.S. citizens, registering as a domestic partner **might** be used as evidence of an intent to stay in the U.S. on a permanent basis, which can be a problem for people who are here on non-immigrant visas.

Generally speaking, if you are not a U.S. citizen or legal permanent resident, you should consult an immigration attorney before registering as a domestic partner. For information about NCLR's free monthly immigration clinics, call Noemi Calonje, NCLR Immigration Project Director, at 415-392-6257 x304 or email her at calonje@nclrights.org.

Questions About Property, Financial Assets, and Debt

AB 205 substantially changed the way the state of California treats the property, financial assets, and debt of registered domestic partners. We strongly suggest that you seek the advice of a knowledgeable attorney if you or your partner, individually or jointly, have or acquire any assets or debts.

Is it true that I am responsible for my partner's debts?

You could be responsible for any debts *incurred by your domestic partner from the date you first registered as domestic partners with the State of California*. For example, if you and your partner registered as domestic partners on February 1, 2001 and your partner has incurred \$10,000 of debt since that time, you could be held responsible for the \$10,000 of debt in a law suit to dissolve the domestic partnership. Whether you will be held responsible depends on several factors, including why the debt was incurred and whether there is other property or debt to divide in the dissolution action. Similarly, if your partner dies, you may be fully responsible for her/his debts. You cannot contract out of this joint responsibility for debt acquired during the domestic partnership.

AB 205 substantially changed the way the state of California treats the property, financial assets, and debts of registered domestic partners. We strongly suggest that you seek the advice of a knowledgeable attorney if you or your partner, individually or jointly, have or acquire any assets or debts.

Is it true that half of my wages are my partner's?

Yes. Half of all of the wages that you earn — or have earned *from the date that you first registered your domestic partnership* — are considered to be your domestic partner's property. However, any unearned income (interest, dividends, rents, royalties, etc.) from separately-owned property (property acquired prior to registering as domestic partners and/or inherited property) remains separate property, unless it is commingled with community property. See the questions below for more information about community property.

Is it true that any money that I inherit will have to be split with my partner?

No, so long as the inheritance funds are kept separate and are not commingled with your partner's money or assets, they remain your separate property. Any money or property that you inherit or are gifted after the date you first registered as domestic partners will *not* be considered "community property" and your partner will not be entitled to any portion of it so long as it is kept separate and not commingled.

What can my partner and I do if we do not want our property to be treated as community property?

If you and your partner have not yet registered and would like for your assets to be divided differently than how state law would divide them you can enter into a pre-registration agreement. To be enforceable, any such pre-registration agreement must meet the requirements for a valid pre-nuptial agreement. If you do not enter into a pre-registration agreement before you register as domestic partners, but still wish

to divide your assets differently than how state law would divide them, you will have to enter into a post-registration agreement, which has stricter requirements than a pre-registration agreement. Regardless of whether you enter into a pre- or post-registration agreement, however, it is not possible to create a contract that dissolves your responsibility to pay child support upon dissolution. Similarly, even if you specify in the registration agreement that you do not accept responsibility for debts acquired by your partner during the domestic partnership, third party creditors may be able to hold you responsible for your partner's debt.

To help ensure that an agreement will be enforceable in the event of a dissolution, many attorneys are advising couples to meet the standards of post-registration agreements even with respect to agreements entered into prior to June 2005. While you may want to consult "do-it-yourself" guides, such as Nolo Press' e-guide, *Prenups for Partners: Essential Agreements for California Domestic Partners* and the companion book, *Prenuptial Agreements: How to Make a Fair & Lasting Contract*, to begin thinking about whether you need a pre-registration agreement and to discuss what you might want to include in such an agreement, you should consult an attorney to finalize your agreement.

What can my partner and I do if we do not want our wages to be community property?

Generally speaking, wages, like any form of earned income or compensation, can be kept as separate property only if there is a valid written pre- or post-registration agreement that complies with the legal requirements for such agreements.

How does the law treat property owned by registered domestic partners?

Registered domestic partners have the right to own real estate as community property or as community property with the right of survivorship. Community property with the right of survivorship, like joint tenancy with the right of survivorship, has the benefit of passing the property to the surviving partner without having to go through probate. Unfortunately, however, domestic partners likely will not receive many of the important tax benefits associated with holding property as community property – benefits including a double stepped-up basis for capital gains when the survivor sells the property – because federal law does not currently recognize domestic partnerships. If you are considering purchasing property with your registered domestic partner, NCLR and EQCA strongly encourage you consult a knowledgeable attorney about which form of ownership is best for you and your situation.

WARNING: Because federal law currently does not recognize registered domestic partnerships for any federal purpose, and because federal tax laws give special protections to married couples that are not available to unmarried couples, it is possible that transfers of assets greater than \$11,000 between domestic partners will be taxed either as income or as a gift by the federal government, even if the transfer is part of or related to a dissolution proceeding. By way of contrast, transfers between spouses during a marriage or as part of a divorce proceeding are not taxable events.

Do I have to share control over our community property with my partner?

Yes. Each registered domestic partner has a right to equal management and control of community property acquired during the registered partnership.

How will our property and assets be divided if we decide to dissolve our domestic partnership in the future?

This situation will be treated the same as it is for married couples who are divorcing. A judge will oversee the dissolution to make sure there is a fair division of property between the two domestic partners. For example, if one partner has been working while the other has been the primary care giver for children, the court will divide the total partnership assets evenly between the two partners, even if the primary care giver did not earn any income. In dividing your assets, a court will take into account the provisions of any pre-or post-registration agreements.

What will happen to our property and assets if one of us dies?

Registered domestic partners are entitled to inherit through their domestic partner even if their domestic partner does not leave a will (this is called intestate succession). If your partner dies without a will, you will be entitled to the same share to which a surviving heterosexual spouse would.

What affect does AB 205 have on property owned separately by each partner before entering the domestic partnership?

None, if you keep the property separate and do not contribute any community assets or earnings to the separate property. Property owned by each partner before registering as domestic partners remains separate property. While no agreement is necessary to achieve this result, it is always advisable to have an agreement which spells out which assets are to be kept as separate property and which as community property. If you use community property funds to pay the mortgage on property that one of you purchased prior to your registration, or to pay for improvements on the property, that portion of the property will be considered community property and treated accordingly.

We strongly recommend that you seek the assistance of a knowledgeable attorney in order to help you determine the best way to purchase, hold, transfer, or will your property for tax purposes.

Questions About Taxes

Will I be taxed if my partner gives me some of his or her separately owned property?

Maybe. Even after the new law goes into effect, domestic partners will not be entitled to all of the same tax protections given to married couples. While most state tax laws will apply equally, federal tax laws will not. So, for example, federal tax laws allow married spouses to transfer unlimited amounts of property between themselves, without any tax penalty. Because domestic partnerships are not marriages, however, these rules of unlimited transfers may not apply to transfers between registered domestic partners. Thus, a transfer of over \$11,000 in any given year may be considered a “gift” and taxed as a gift. For example, if a wife owns a beach house and transfers the title to her husband, the property is not taxed. In contrast, if one domestic partner owns a beach house and transfers the title to his or her partner, the value of the property, over \$11,000 might be taxed as a gift by the federal government.

Will our property be reassessed if my partner dies and leaves me the house that we had owned jointly?

Thanks to SB 565, which goes into effect on January 1, 2006, the state of California will not reassess the value of property that is jointly owned by registered domestic partners when the property is transferred from one partner to the other because of dissolution or death. SB 565 was authored by California Senator Carole Migden. If you face this issue prior to January 1, 2006, before SB 565 goes into effect, NCLR and EQCA strongly suggest that you contact a knowledgeable attorney. You may also be able to get information on a specific situation from your county assessor or from the State Board of Equalization.

How should my partner and I file our state and federal income taxes?

Unfortunately, registered domestic partners may not file their state or federal taxes jointly. You must file both your state and federal income taxes as if you were single. Earned income will not be considered community property for purposes of filing your state income taxes.

Questions About Parenting and Adoption

Are my partner and I both legal parents of children born to us after January 1, 2005?

The current law provides that “[t]he rights and obligations of registered domestic partners with respect to a child of either of them shall be the same as those of spouses.” This means, among other things, that a child born to registered domestic partners automatically will be considered the legal child of both partners, regardless of their biological connection to the child.

For lesbians who are using artificial insemination to have a child, both partners can be included on the child’s original birth certificate at the hospital. Gay men who are using a surrogate, however, will need to obtain a court judgment of parentage *before* both partners can be included on the child’s birth certificate, which is also true for a heterosexual married couple who uses a surrogate.

Despite this automatic legal protection for children born to registered domestic partners, NCLR and EQCA strongly recommend that all couples obtain a court judgment declaring both partners to be legal parents. Having a court judgment is extremely important to ensure that other states and the federal government will respect the child’s legal relationship to both parents. It is also important to help eliminate the possibility of conflict and litigation over this issue in the event the parents ever separate.

There are several options for obtaining a court judgment, including completing an adoption or obtaining a judgment of parentage. It is not yet clear which will be the best option, and the answer may vary depending on the family’s particular circumstances. Therefore, it is critically important for couples who have or are going to have children to consult with an experienced family law attorney to discuss their options.

What about children born before January 1, 2005?

It is not clear to what extent AB 205 will apply to children born before January 1, 2005. We believe the law should apply to protect these children, but this issue has not yet been completely settled. In addition, according to recent decisions by the California Supreme Court, some same-sex couples who raise children together may both be treated as legal parents, even if they are not registered domestic partners, and even if they did not obtain a second-parent adoption. To protect your children and your own rights as a parent, it is critically important that you contact a family law attorney who is familiar with LGBT parenting issues and obtain a court judgment clarifying your parental status.

What is the difference between a second-parent adoption and a stepparent or domestic partner adoption?

Stepparent/domestic partner adoptions are available only to registered domestic partners; in contrast, second-parent adoptions are available to all couples, regardless of their sexual orientation, and regardless of whether they are married or in a registered domestic partnership. Both of these forms of adoption provide an opportunity for a non-biological or non-legal parent to adopt his or her partner’s biological or

adoptive child. Neither requires the original, legal parent to give up any of his or her rights to the child in order for the partner to adopt. After the adoption is complete, both partners are recognized as equal parents with equal rights and responsibilities.

Both procedures lead to the same result – legal adoption and equal parenting rights and responsibilities. However, there are significant differences in the amount of time and money it costs to do these procedures. Second-parent adoptions cost more, involve more invasive home studies, and generally take more time to complete than a stepparent/domestic partner adoption.

The stepparent/domestic partner adoption process is more streamlined because it recognizes that the child already is residing in the home of the person adopting, and that that person has been chosen as the second parent by a fit, custodial parent. Stepparent/domestic partner adoptions are usually faster and less expensive than second parent adoptions. To take advantage of the more streamlined stepparent/domestic partner procedure, you must provide proof that you are registered domestic partners.

Partners who do not want to register can use the second-parent adoption procedure. Contact an adoption attorney to find out how to proceed.

What does it mean to be a legal parent?

Legal parents have a duty to support and care for their children. They also enjoy certain rights and privileges with regard to their children. For example, they can make important decisions about their children’s education, healthcare, religion, recreation, etc. When there are two legal parents, they share equally in the rights, privileges, and responsibilities both during the relationship and after a break-up. This means that after a break-up, both parents will have the right to ask a court for custody or visitation. It also means that both parents can be ordered by the court to pay child support.

Is my insurance plan required to cover my fertility treatment?

Healthcare options for registered domestic partners should be equivalent to the options available to married spouses. However, some insurance companies have defined infertility in a way that makes it difficult for lesbians to receive coverage for fertility treatments. For example, an insurance provider may define “infertility” as having tried to get pregnant through traditional intercourse for more than 6 months without success. Therefore, lesbians may not appear to qualify for infertility treatments under the terms of their insurance policies.

NCLR and EQCA believe that defining “infertility” in a way that excludes lesbians constitutes discrimination, and encourages anyone encountering this issue to challenge their insurance companies or to contact an attorney knowledgeable on these issues.

Will my partner and I both be able to become legal parents if we use a surrogate?

Yes, you both should be able to become the legal parents of a child born to a surrogate; however, because surrogacy is a complicated legal area, we strongly recommend that you contact a family law attorney who is familiar with LGBT issues and surrogacy before attempting to create a family in this manner.

Questions About Public Assistance and Federal Benefits

What if my child, my partner or I receive public assistance?

It is likely, although not absolutely certain, that your registered domestic partner's income will be taken into account when calculating your eligibility for some public assistance benefits, such as Medi-Cal or food stamps, just as a spouse's income is taken into account when a married person applies for benefits. Therefore, it is possible that your eligibility for some forms of public assistance will be affected negatively by the new law. If you are receiving public benefits, NCLR and EQCA strongly encourage you to contact the specific program administrator to find out more information. Generally speaking, people who are receiving public assistance should be very cautious about registering as domestic partners, because in many instances there is a great likelihood that you will lose your benefits.

Am I entitled to any federal benefits through my partner, such as Social Security survivor benefits?

No. Unfortunately, the federal government provides Social Security benefits only to spouses; the federal government does not recognize registered domestic partnerships. Therefore, any federal benefits that are provided to heterosexual spouses because of their marital status will not be provided to registered domestic partners.

Do I get any benefits if my registered domestic partner is a veteran?

You will be entitled to the same benefits that the state of California provides to heterosexual spouses. For example, you will be entitled to the state-conferred hiring preference for surviving partners of veterans and partners of totally disabled veterans. If your partner is killed or injured while in active service, you are entitled to several state tax benefits.

Questions About Healthcare and End of Life Issues

Can I visit my partner in the hospital or live in senior citizen housing?

California law provides that registered domestic partners automatically are entitled to visit their partners in the hospital. California law also provides that registered domestic partners are qualified to obtain housing in specially designed accessible housing for senior citizens. Because it is likely that other states will continue to discriminate against registered domestic partners, you may not be entitled to these rights in other states. For this reason, NCLR and EQCA encourage registered domestic partners to complete a hospital visitation authorization in the event that one or both of you are in a hospital in another state. You should carry a copy of your hospital visitation authorization with you at all times.

Can I make medical decisions for my incapacitated partner?

California law provides that registered domestic partners automatically are entitled to make medical, legal, and financial decisions for their incapacitated partners. Because it is likely that other states will continue to discriminate against registered domestic partners, you may be denied these rights in other states. For this reason, NCLR and EQCA encourage registered domestic partners to complete a medical directive, and durable powers of attorney for health care and finances. You should carry copies of these documents with you at all times when you travel out-of-state.

Can I make decisions about my partner's remains?

Registered domestic partners automatically are now entitled to make decisions about their partner's remains. But because of the likelihood of discrimination by other states, should something happen to one of you outside of California, NCLR encourages registered domestic partners to complete an autopsy and disposition of remains authorization.

Sample forms can be accessed in NCLR's Life Lines publication, which is available at:

<http://www.nclrights.org/publications/lifelines.htm>.

Questions About Employment and Insurance

Does my employer have to provide domestic partner benefits?

Under the California Insurance Equality Act (A.B. 2208), all health, auto, rental, disability, life, and all other insurance plans regulated by the California Department of Insurance are prohibited from treating registered domestic partners and heterosexual spouses differently. Therefore, all covered policies and plans must provide identical coverage to registered domestic partners and heterosexual spouses. So, for example, unless your employer is self-insured, if your employer provides health benefits to the heterosexual spouses of its employees, it will also have to provide the same coverage to the registered domestic partners of its employees. The California Insurance Equality Act went into effect on January 2, 2005 for group health insurance plans and on January 1, 2005 for other types of insurance. For more information about the California Insurance Equality Act, see http://www.nclrights.org/publications/ab2208_faq_0904.htm. In addition, failure on the part of businesses or employers to provide equal benefits to domestic partners may constitute unlawful discrimination on the basis of sexual orientation, sex, or marital status, depending on the circumstances.

Will I be able to put our child on my benefits at work?

Both registered domestic partners are considered to be the legal parents of any children born during a domestic partnership. Therefore, if your employer provides benefits to employees' children, your employer must provide benefits to your child, even if you are not the birth parent or the biological father.

Will I be able to take leave from my job to care for our child?

Both registered domestic partners are considered to be the legal parents of any children born during a domestic partnership. Therefore, both partners are entitled to take leave to care for their child, to the same extent that other parents are entitled to take leave. Contact an employment law attorney if you have any problems taking leave to care for a child. With regard to federal benefits, it may be more difficult to obtain benefits such as family leave without proof of a legal parental relationship, such as an adoption decree or a parentage judgment.

Are my partner and I entitled to Social Security and other benefits provided to spouses by the federal government?

No. Current federal law does not provide registered domestic partners with any of the 1,138 benefits provided to heterosexual spouses, including, the right to obtain survivor Social Security benefits after a heterosexual spouse has died. The federal government also continues to tax the value of domestic partner benefits, while it does not tax the value of benefits to heterosexual spouses.

Miscellaneous Questions About AB 205

Do I owe my partner any duties?

Yes. A registered domestic partner who willfully abandons and leaves her or his partner in a destitute condition or who refuses or neglects to provide her or his partner with necessary food, clothing, shelter, or medical attendance is guilty of a misdemeanor.

Can I sue if someone kills or injures my partner?

Yes. If a registered domestic partner is killed due to the negligence or wrongdoing of another person, the surviving partner can bring a wrongful death suit to recover for lost financial support and companionship. A registered domestic partner can also bring a suit for the infliction of emotional distress if one partner witnesses the other partner being physically harmed by another person.

Will I have to testify against my partner in a court of law?

Not in state court. A registered domestic partner has a right not to testify against her or his partner in any state court or administrative proceeding. Because the federal government does not recognize domestic partnerships, however, this protection likely will not apply in a federal court or federal administrative proceeding.

Am I allowed to visit my partner in prison?

With regard to state prisons, you should be allowed to visit with your partner to the same extent that a heterosexual spouse can. Because the federal government does not recognize domestic partnerships, however, you may continue to face discrimination with respect to visitation rights in federal prisons.

Notes:

NCLR is a national legal resource center which was founded in 1977, with headquarters in San Francisco and regional offices in Florida and Washington, D.C. Through impact litigation, public policy advocacy, public education, collaboration with other social justice organizations and activists, and direct legal services, we advance the legal and human rights of lesbian, gay, bisexual and transgender people and their families across the United States.

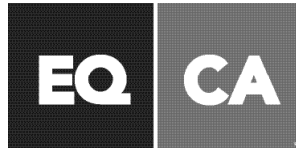
EQCA is California's state-wide LGBT civil rights and advocacy organization. EQCA leads efforts for LGBT civil rights at the state level through an array of strategies including sponsoring legislation and leading efforts to ensure their passage, lobbying legislators and other government officials, building coalitions, and empowering other organizations and individuals to engage in the political process. Founded in 1998, EQCA has chapters throughout the state and offices in Sacramento, Los Angeles and San Francisco.

For more information about



Legal issues cont act:

National Center for Lesbian Rights
870 Market St., Ste. 370
San Francisco, CA 94102
415.392.6257
www.nclrights.org



Equality California | eqca.org

Legislative issues cont act:

Equality California
415.581.0005 (Northern California Office)
310.248.3692 (Southern California Office)
916.554.7681 (Sacramento Office)
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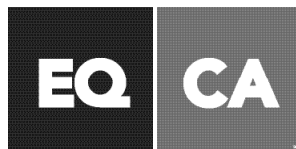


**The California Domestic Partnership Law (AB 205)
What it Means for You and Your Family**

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