

# DOMESTIC PARTNERSHIP INFORMATION SHEET

NOTE: THIS IS NOT LEGAL ADVICE-ONLY A LAWYER CAN GIVE YOU LEGAL ADVICE

Excerpts are taken from literature prepared by The American Civil Liberties Union of Northern California

Edited for local use by the Office of the Marin County Clerk

**PLEASE BE ADVISED THAT: Marin County's Domestic Partnership is applicable only within the County of Marin in accordance with Code Section 6.88: <http://www.ordlink.com/codes/marinco/>**

## **THIS MAY NOT DO ALL THE THINGS YOU WANT...**

A Domestic Partnership is not the same as a marriage. Unless there is a will, you and your partner will not inherit property. A Domestic Partnership will not guarantee your partner the legal right to take care of you if you get sick. It does not mean that you and your partner have any legal rights to each other's pay or property.

## **THIS MAY DO THINGS YOU HAD NOT COUNTED ON...**

A Domestic Partnership creates legal rights and duties. For example, if your partner can't provide himself or herself with food and shelter you have the responsibility to provide it for him or her. If you file your declaration with the County Clerk, it will be a public record and anyone may view it.

## **HOW TO DO IT...**

### **CRITERIA:**

You may be eligible to file as domestic partners in the County of Marin by either living in Marin County, or if at least one partner works substantially full-time in Marin County.

## **TWO WAYS TO FILE:**

### **TO FILE IN THE OFFICE OF THE COUNTY CLERK**

An Application must be completed and filed with a \$20.00 filing fee. The application form entitled "Declaration of Domestic Partnership" may be obtained at the Marin County Civic Center, Room 234, Monday through Friday, 9:00 a.m. to 4:00 p.m. You and your partner must sign this form in the presence of the deputy clerk. After the form has been reviewed for accuracy and the fee has been paid, the clerk will file the form and present you with a Domestic Partnership Certificate.

### **TO FILE THROUGH THE MAIL BY USING A NOTARY PUBLIC**

If one or both of you cannot appear in person at the Clerk's office, you may use a Notary Public. The Declaration of Domestic Partnership Form is taken to a Notary Public and signed in the Notary Public's presence after proving your identity. The signing must be witnessed; the witness may be the Notary Public. The completed application is then filed with the Marin County Clerk with the \$20.00 filing fee through mail or delivery service or by the other partner who is signing in the Clerk's office.

## **OTHER THINGS TO DO...**

### **A Will:**

To make sure your partner gets your property when you die, you may need a will or other estate-planning tool executed by a lawyer. It is safer to get legal advice, but using a good do-it-yourself book to set up a will is better than trying to write one on your own, and much better than not making one at all.

### **A Medical Power of Attorney:**

The only way to be sure that your partner can be in charge of your care if you get sick is for you to execute a DURABLE POWER OF ATTORNEY FOR HEALTH CARE. These forms are available at most stationary stores and would require a notary. Many lawyers do them also.

### **Property and Pay:**

State law on property owned by two people will cover items you purchase together. A Domestic Partnership has no effect on property ownership. It does not give you any right to property that your partner pays for. A Domestic Partnership does not give you or your partner any rights to each other's pay. For those rights you may set up a relationship contract. If you want to know more about your rights, seek legal advice.

### **Benefits:**

This ordinance sets up a system which companies, stores, other businesses, and unions may use to include domestic partners in family discounts, leave policies, health plans, etc. It does not compel anyone to give benefits to Domestic Partnerships. If you plan on submitting a Domestic Partnership agreement with your employer/business you will have to make sure they agree to accept it.

**Be Careful With Welfare and Public Assistance:**

A Domestic Partnership will not affect State Disability Insurance (SDI) or Social Security Disability Insurance (SSDI). The Department of Social Services (DSS) says a Domestic Partnership will not change benefits under their programs. These include Medi-Cal, AFDC and GA. It also should not affect SSI. Some attorneys worry that the partnership might affect DDS programs and SSI. If either you or your partner receives public assistance (or if you might in the future) you may want to find out how a Domestic Partnership might change eligibility for these and other programs.

**YOU HAVE COMMITMENTS...****There May be More Duties**

If your employer agrees to cover your partner, you will be responsible for any medical bills the insurance company does not pay (like deductibles or co-payments). If your partner cannot pay these bills you would be required to pay them on your partner's behalf and the doctor or hospital can order you to. The ordinance is not intended to make domestic partners responsible for extraordinary food and housing costs (like room and board in a medical facility). However, some lawyers fear that a court could decide that it does. If you think one of you might get sick, you may want to get specific legal advice.

**Amending the Declaration:**

A partner may amend the Declaration of Domestic Partnership at any time to show name or address changes. To amend, a partner must use the form provided by the County Clerk for that purpose.

**Terminating a Partnership:**

A Domestic Partnership ends when: (1) one of the partners dies; (2) one of the partners send the other a Notice of Terminating a Domestic Partnership; (3) one of the partners gets married; or (4) the partners stop living together.

If a Domestic Partnership for which a Declaration was filed with the County Clerk ends, at least one partner must, and the other partner may, file a Statement of Termination with the County Clerk. To file a Statement of Termination, a partner must use the form provided by the County Clerk for that purpose. A member of the partnership must provide a filed termination form to any organization that was originally provided proof of the Domestic Partnership.

**New Declarations of Domestic Partnership:**

No person who has filed a Declaration of Domestic Partnership may file another Declaration of Domestic Partnership until six months after a Statement of Termination has been filed with the County Clerk. This does not apply if the earlier Domestic Partnership ended because one of the partners died.

**PLEASE READ THIS BEFORE YOU SIGN**

To be domestic partners, you and your partner must: be residents of the County of Marin, or one of the partners must work substantially full-time in Marin County; both of you are 18 years of age or older; neither of you are married; you are not related to each other in a way which would bar marriage in California; neither of you are acting under fraud or duress, and both are competent to contract; you reside together and share basic living expenses; each of you declares in writing, under penalty of perjury, that each is the other's domestic partner, and, any different Domestic Partnership of which either was previously a member ended more than six months ago, except that this requirement does not apply if the earlier Domestic Partnership ended because of the death of one of its members.

**“Live Together”**

To “live together” means: the two of you share living quarters. You do not both have to be on the rental agreement or deed. It is okay if one or both of you has a separate place somewhere else. Even if one of you leaves the place you share, you still live together as long as the one who left intends to return.

**“Basic Living Expenses”**

“Basic living expenses” means: two people residing together with both persons contributing to household necessities, including but not limited to housing, utilities, food and other necessities, in shared living quarters. The individuals need not contribute equally so long as they agree that both are responsible for the costs.

For further information or assistance, you may call the Office of the County Clerk at (415) 499-6152.