

Domestic Partnership Agreements: Overview

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This is the first installment of a seven-part series by Michael P. Sampson and Edith G. Osman Many couples who could not marry now can. The United States Supreme Court decision in *Obergefell v. Hodges* framed the issue of the fundamental right to marry and the choice to commit to and intimately associate with the person you love through marriage as one of identity and liberty. But thousands of people in committed intimate relationships choose not to exercise their right to marry, but to remain happily ever unmarried. Their identity and liberty interests allow them that choice. Property and support issues are no less important to people who choose to stay unmarried in committed relationships. Domestic partnership agreements can protect committed couples who remain unmarried, just as premarital agreements do for marrying couples. In this series, we provide an overview of domestic partnership agreements and issues couples typically address, including the home where they'll live during their relationship, paying joint bills, handling separate property and property the couple may acquire during their relationship, support if the relationship ends, death, and financial disclosures. Finally, we provide some common questions and answers about domestic partnership agreements. **Overview** Premarital agreements, also known as “prenuptial” or “antenuptial” agreements, express the wishes of a marrying couple regarding their property and support rights upon (i) death of one party or (ii) divorce or separation. As part of the estate planning each party’s family may have done, assets may have been transferred into one or more trusts or business entities for each party’s benefit. One of

the goals of estate planning is to retain control of family companies and other assets within the immediate family. Provisions in the agreements should be consistent with this goal. Beyond the issue of the ownership of family companies and interests in trusts, domestic partnership agreements often include provisions for a joint household account; support alternatives; alternative provisions upon death; and provisions about keeping the contents of the agreement private. The agreement will define and cause, if the relationship ends, each party's interests in separate assets and family trusts and in other property to be deemed each party's separate property. A second goal will be to clarify that the agreement will treat as each party's separate property, unless either party directs otherwise, the income, distributions, dividends, appreciation, and benefits from each party's separate property. The agreement should describe each party's ownership interests and trust interests in which either party may acquire rights and benefits during the parties' relationship. It will provide for waiving interests if the relationship ends. *Our next segment will discuss [the home and joint expenses](#).*

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