



Wisconsin Domestic Partnership Protections Reference Guide

Fair Wisconsin is proud to have played a major role in securing an important and historic victory for civil rights this summer. On June 29th, 2009, Wisconsin Governor Doyle signed domestic partnerships into law. No other state with a constitutional amendment banning both marriage equality and civil unions has made such a strong, forward-thinking action. This also makes Wisconsin the first state in the Midwest to legislatively enact protections for same-sex couples. While there is a long way to go to gain full equality under the law, this step is a major milestone in the quest for fairness. It was made possible by thousands of grassroots advocates statewide who joined Fair Wisconsin in lobbying their legislators, telling their story and never giving up on the cause of fairness.

Fair Wisconsin worked with lawmakers, legislative drafters, legal counsel and many others to help craft a law to provide important and meaningful protections. We have put this guide together for couples who wish to register as domestic partners and start securing dozens of rights for them and their families. Congratulations from Fair Wisconsin!

What are Domestic Partnerships?

Domestic partnership in Wisconsin is a legal status that provides same sex couples who register as domestic partners with certain limited legal protections. These include:

Inheritance and Survivor Protections - A surviving domestic partner:

- inherits from the estate of domestic partner who dies without a will;
- can be awarded the couple's home and vehicles that are titled in the name of the deceased partner, as well as personal and household items of the deceased partner, by a probate court;
- may have certain protections against creditors;
- can transfer a deceased partner's assets to the surviving partner without probate if the total value is less than \$50,000;
- can receive death benefits if the deceased partner was killed in a workplace accident, with special benefits if the partner was a police officer or firefighters killed in the line of duty;
- can get victim compensation if the deceased partner was injured or killed while trying to prevent a crime or assist a law enforcement officer;
- can sue for a partner's wrongful death.

Family and Medical Leave

- Employees who are covered by the state Family Medical Leave Act may take up to 2 weeks off per year to care for a domestic partner with a serious medical condition.

Medical, Hospital, and Visitation Rights

- Domestic partners get certain privileges in medical settings to visit, admit an incapacitated partner to a health care facility, share a nursing home room, and access mental health records. These apply to hospitals, hospice facilities, group homes, nursing homes, and residential care facilities.
- If a domestic partner dies, the surviving partner can consent to organ donation or autopsy.
- Please note: these privileges are limited and do not take the place of having a health care power of attorney, disposition on death authorization, HIPAA authorization, and similar documents that provide much stronger protections.

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Other Protections

- A domestic partner can prevent his or her partner or former partner from testifying against the person as to private communications during the partnership.
- Transfers of real estate between domestic partners are exempt from the real estate transfer fee, as well as car and boat titles.

For a full summary of the domestic partnership protections, see the Legislative Fiscal Bureau paper: <http://www.legis.wisconsin.gov/lfb/2009-11Budget/Budget%20Papers/391.pdf>

How can my partner and I register for a domestic partnership?

Couples can begin registering for a domestic partnership on Monday, August 3rd.

Domestic partnerships are administered at the county level. In order to obtain a domestic partnership, committed same-sex couples in long term relationships will go to the county clerk's office in the county where at least one of the partners resides. The parties must complete a legal affidavit, sign it, and pay a fee. Fees vary between the different counties in the state and will be similar or identical to the fees for marriage licenses in that county. The clerk will issue a declaration of domestic partnership after a five-day waiting period. The county may waive this waiting period for a fee of up to \$10.

To qualify for a domestic partnership, two individuals must:

- be at least 18 years old
- be members of the same-sex
- share a common residence
- not be nearer of kin than second cousins
- not be married or in another domestic partnership

To register for a domestic partnership, bring the following documents to the county clerk's office:

- Proof of residence and identification.
- Certified copies of birth certificates and Social Security numbers.
- For people who have been previously married, a certified death certificate or divorce judgment is required.

Domestic partnerships can be dissolved through a legal termination process at the county clerk's office, beginning with the filing of a notice of termination of domestic partnership and paying a fee. The terminating partner has the responsibility to inform the other partner of the termination.

What to expect when you register:

The day you register as domestic partners is an important day for you and an important step on the road to full equality. All of us at Fair Wisconsin want your day to go smoothly and we want to hear your story!

Attire – dressing for the day:

- Dress appropriately for this day—how do you want to remember this moment?
- Assume that you might end up in a newspaper, especially if you register on August 3rd.

Media – if you are approached by a member of the press:

- Focus on your love, your commitment, and your long-term relationship.
- Express your joy – what this day means to you personally.
- Emphasize your connection to Wisconsin and how proud you are to live here.

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Share Your Story– tell Fair Wisconsin about your day so we can share your story on our website:

- Email pictures and a brief synopsis of your story as a couple, including the day you registered for a domestic partnership, to yourstory@fairwisconsin.com.
- Check out www.fairwisconsin.com for stories of couples throughout the state!

If you have trouble registering:

You can contact Fair Wisconsin if you have any additional questions, 608-441-0143. Staff members can provide you with additional resources and they can engage you in the ongoing work to advance the cause of fairness. Fair Wisconsin does not give legal advice, so for a specific legal inquiry, please contact your attorney.

Can anyone access information about my domestic partnership?

Domestic partnership registrations will be handled as vital records. This means that while the documents are not open to anyone who might want to see them, certain people, including some family members and governmental officials, will have access to those records. Therefore, your complete privacy cannot be guaranteed.

How do domestic partnerships relate to the 2006 ban on same-sex marriage?

The proposed domestic partnerships would provide couples 43 protections, compared to more than 200 protections granted to married couples. For this reason, a domestic partnership is not “substantially similar” to marriage.

The Wisconsin Legislative Council issued an opinion on May 6th, 2009, supporting the legality of domestic partnerships under the constitutional amendment, stating “it is reasonable to conclude that the domestic partnerships proposed...do not confer a legal status identical or substantially similar to that of marriage for unmarried individuals in violation of art. XIII, s.13.”

What if my partner and I are married in a different state or country?

Wisconsin does not recognize same-sex marriages from another state or country. While we cannot predict with certainty how a court would address this question, the criteria to register include that neither individual is married to another individual. We believe that "another individual" means not the person you're registering with. Also, given the Wisconsin amendment banning same-sex marriage and civil unions, a marriage from another state or country *cannot* be recognized by Wisconsin. However, it is important to note that Fair Wisconsin does not give legal advice. For specific legal inquiry, please contact your attorney.

I've been hearing about state employee health care coverage for domestic partners. How is this related to domestic partnerships?

Beginning this fall, domestic partners of many non-represented state employees will be eligible to sign up for health insurance coverage. Available to both same-sex and opposite-sex partners, these benefits will take effect in January of 2010. For public employees covered by the Wisconsin Retirement System, their domestic partners will be entitled to pension and other benefits.

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Health care coverage for state employees is separate from the domestic partnership protections that same-sex couples receive by registering with the county clerk. The Human Resources department of your office or department will be able to provide you with more information.

About Fair Wisconsin:

Fair Wisconsin, one of the state's most respected advocacy groups, has a proud history in education, grassroots organizing, outreach, and political action in the cause of lesbian, gay, bisexual, and transgender (LGBT) equality. With a statewide board of directors and a full-time staff, Fair Wisconsin is the only organization to represent the Badger state in the Equality Federation, the national alliance of state-based LGBT advocacy organizations. Fair Wisconsin, along with our national and regional allies, recently helped enact important domestic partnership protections for same-sex couples, making us the first state with an existing constitutional amendment banning both marriage equality and civil unions to enact domestic partnerships. To learn more, visit www.fairwisconsin.com