

# DOMESTIC PARTNERS

*Couples Are Gaining Recognition from Government and Equal Benefits At Work*

Fewer than 14% of the nation's households consist of so-called "Ozzie and Harriet" families with a husband in the workplace and wife at home caring for minor children. The 1990 census shows that most urban households do not contain a married couple.

Living arrangements in America are diverse. There are single-parent families, stepfamilies, extended families, and unmarried partners. People who live alone make up 25% of the nation's households.

## DOMESTIC PARTNERSHIP BENEFITS MOVEMENT

A domestic partner movement has been steadily emerging over the past 10 years. Many unmarried adults who live together function as family units. Some have children. Although many are gay and lesbian, most are straight. Domestic partners include young adults who defer marriage until their careers are established or until their education is complete. Others are divorced parents who are not ready to enter into another marriage. Still others include widows and widowers who fear a loss of pension survivor benefits if they remarry. Same-sex couples remain unmarried because they do not have the legal option to marry.

Although the reasons for their unmarried cohabitation vary, most domestic partners have something in common -- a strong desire to be recognized as a family unit and to be treated fairly by their landlords, their employers, and by the government.

## PUBLIC OPINION

Most Americans do not believe that families are limited to people related by blood, marriage, or adoption. In a recent national survey, only 22% used such a legalistic definition, while 74% defined a family as a "group who love and care for each other."

According to polls done by Gallup and Lou Harris in 1986, 1978, and 1990, more than 60% of Americans support a right of sexual intimacy for both unmarried heterosexuals and homosexuals. In a 1992 Gallup Poll, 78% believed gays and lesbians should have equal job opportunities and 67% felt gays should be able to put same-sex partners on their health insurance plans.

In a 1986 survey by the Roper Organization, 88% of Americans believed in equal pay for equal work. This concept evokes strong support from domestic partners since they are paid considerably less than married workers when benefits are factored into

the overall compensation scheme. This results in about 25% less total compensation for unmarried employees. In effect, unmarried persons are subsidizing the benefits of married workers.

## GOVERNMENT AND PRIVATE-SECTOR RECOGNITION

Many state and local governments now recognize domestic partners as families. Some cities allow couples to register with the city clerk. Others offer domestic partner benefits to their employees.

Some employees are suing government employers. Litigation filed by New York teachers and by Vermont state employees resulted in settlements that extended health, dental, and family leave benefits to employees with domestic partners. Employees sued but lost in Wisconsin, California, and Colorado. Employees at the University of Alaska won a case in Superior Court and are awaiting a final decision from the Alaska Supreme Court.

However, many employers are not waiting to be sued. They recognize that giving equal benefits to all workers regardless of marital status is good for morale and helps a company attract and retain talented workers. These companies are including domestic partners as "eligible family dependents" in benefits programs.

## FAIRNESS IS THE GOAL

The primary theme of the domestic partner movement is simple: government should treat domestic partners as families and employers should provide equal benefits to all workers who have dependents.

Domestic partners are not asking for a handout. They realize that with rights there are responsibilities. That is why they not only assume the everyday responsibilities that exist when two people live together, but they are willing to acknowledge mutual legal obligations by registering their relationships.

The success of this movement requires support from friends and coworkers, as well as elected officials, labor unions, corporate executives and professional associations.

But most of all, eliminating discrimination in public employee benefits programs depends on how successfully unmarried employees can educate the public about the unfairness of paying them less than married employees for doing the same work.

## ***THE TERM "FAMILY" IS HISTORICALLY BROAD ENOUGH TO INCLUDE DOMESTIC PARTNERS***

In this country, the legal definition of marriage is understood to include two people of the opposite sex. From a global perspective, not one nation currently defines "marriage" broadly enough to include same-sex couples.

On the other hand, American law has treated the concept of "family" as a term of inclusiveness and flexibility. That is why courts in many states have invalidated zoning ordinances that attempted to prevent unmarried adults from living in neighborhoods zoned for single family use. That is also why nearly 200 public and private employers throughout United States have redefined "immediate family" in their employee benefits plans to include domestic partners, thus enabling workers to take sick leave when their partner is ill, bereavement leave when he or she dies, and to put a lifemate on the company's health plan.

The term "family" is derived from the Latin term "familia" which means household. In American law, the primary definition of "family" as it is found in legal dictionaries and encyclopedias refers to a group of persons living in a single housing unit in a relationship that is intimate, permanent, and interdependent. The dictionary has secondary definitions which are narrower and which refer to a nuclear biological family of parents and children or to an extended blood family. However, the primary definition of is not limited to blood, marriage or adoption.

### **WHEN "FAMILY" IS NOT DEFINED**

Sometimes the term "family" is used in a contract or in a statute without any definition. When this happens, it is left to the courts to decide whether a particular relationship will be considered a family. In making this decision, courts will look to the intentions of the parties, legislative intent, relevant public policies, and constitutional considerations.

In *Braschi v. Stahl Associates* (1989) 74 N.Y.2d 201, New York's highest court was called upon to determine whether a surviving same-sex life partner of a tenant could be considered a family member of the deceased tenant. While both men lived in the rent-controlled apartment for years, the lease was only in the name of one of them. When he died, the landlord tried to evict

the survivor. The survivor claimed a right to remain in the apartment under a law that protected "surviving family members" who lived on the premises with the deceased tenant. The law in question did not define "family."

Citing the primary definition of "family" in both *Webster's Dictionary* and *Black's Law Dictionary*, the Court of Appeal ruled in favor of the surviving domestic partner, concluding:

*"The term family . . . should not be rigidly restricted to those people who have formalized their relationship by obtaining, for example, a marriage certificate or adoption order. The intended protection against sudden eviction should not rest on fictitious legal distinctions or genetic history, but instead should find its foundation in the reality of family life. In the context of eviction, a more realistic, and certainly equally valid, view of family includes two adult lifetime partners whose relationship is long term and characterized by an emotional and financial commitment of interdependence. This view comports both with our society's traditional concept of 'family' and with the expectations of individuals who live in such nuclear units."*

The conclusion of the New York court is reminiscent of a longstanding judicial precedent in California. In *Moore Shipbuilding Corp. v. Industrial Accident Commission* (1921) 185 Cal. 200, the California Supreme Court awarded worker's compensation survivor benefits to an unmarried woman who had lived with and who had been dependent upon a deceased worker. Ruling for her, the court declared:

*"'Family' may mean different things under different circumstances. The family, for instance, may be . . . a group of people related by blood or marriage, or not related at all, who are living together in the intimate mutual interdependence of a single home or household."*

## RESTRICTIVE DEFINITIONS MAY BE ILLEGAL

Sometimes businesses or government entities define "family" in a restrictive way. For example, an agency might limit the definition of "family" to include only spouses and blood relatives. In this situation, courts may invalidate the definition if it violates a civil rights law or a constitutional provision.

Some courts have invalidated restrictive definitions of family because they violated statutes prohibiting marital status discrimination. For example, in *Whitman v. Mercy-Memorial Hospital* (Mich.App. 1983) 339 N.W.2d 730, a hospital in Michigan refused to allow an acknowledged father of a child to be present in the delivery room when the mother delivered the baby. The hospital authorized only a husband or "member of the immediate family" of the mother to be present. The Court of Appeals declared that the hospital's definition of "immediate family" violated a state law prohibiting places of public accommodation from engaging in marital status discrimination. It ruled that not allowing a woman's unmarried partner to be present in the delivery room was marital status discrimination.

In *Worcester Housing Authority v. Mass. Commission Against Discrimination* (Mass. 1989) 547 N.E.2d 43, the applications of three couples with children were denied by the housing authority on the sole basis that the couples were not married. The housing authority defined "family" as two or more persons who are related by blood or marriage, who share a residence and pool their financial resources. The Massachusetts Supreme Court ruled that the housing authority's definition of family violated a law prohibiting marital status discrimination in housing.

In other cases, restrictive definitions of family have been declared unconstitutional. For example, in *McMinn v. Town of Oyster Bay* (Ct.App. 1985) 488 N.E.2d 1240, the highest court of New York invalidated a single-family zoning law in the Town of Oyster Bay. The ordinance limited "family" to any number of persons related by blood, marriage, or adoption, or two unrelated persons, both of whom are 62 years of age or older, and who live and cook on the premises as a single, nonprofit housekeeping unit. The court held the statute violated due process because it excluded younger unrelated adults who would live together as "the functional and factual equivalent of a natural family." In *City of Santa Barbara v. Adamson* (Cal. 1980) 610 P.2d 436, the California Supreme Court ruled that a similar ordinance violated the right of privacy in the state Constitution. Zonings laws in Colorado and New Jersey that used a restrictive definition of family have also been invalidated by the courts.

## Employers Report No Adverse Costs for Domestic Partner Benefits

A study done by Hewitt Associates for Levi Strauss found that only 750 employees nationwide (1.5%) have signed up for domestic partner benefits out of 50,000 who were offered the benefit. Although the percentage will vary among employers, fewer than two percent of workers have signed up for these benefits nationally.

In a survey done of employees who work for the City of Los Angeles, less than 5% indicated they had a domestic partner. In Seattle, many employees with domestic partners did not register their partners for health benefits because their partners also worked and had health coverage through their own employer.

The following are percentages of workers that signed up for domestic partner benefits for these employers.

Employer	Total Workers	Domestic Partners
Ben & Jerrys	300	5.0%
Berkeley	1,550	7.1%
Laguna Beach	226	2.7%
Madison	2,683	2.0%
Minn. Comm.	650	1.7%
San Francisco	32,000	.9%
Santa Cruz	650	3.1%
Seattle	10,000	2.3%
Village Voice	250	6.0%
Walker Arts	131	3.8%

Cities offering health benefits have reported an excellent experience with both premiums and claims.

In Berkeley, for example, although 7.1% of the workforce signed up for domestic partner benefits, premiums only rose by 2.8%. Berkeley reports that its claims experience is similar to that for spouses.

The cities of Santa Cruz, San Francisco, and Laguna Beach say costs for domestic partners are the same as the costs for spouses.

# GOVERNMENT RECOGNITION OF DOMESTIC PARTNERS

The following is a list of government employers offering domestic partnership benefits as of August 1993. For a list of additional employers that began offering such benefits in 1994, please refer to the box on page 8.

## FEDERAL GOVERNMENT

**H.U.D.** In November 1989, the Department of Housing and Urban Development signed a collective bargaining agreement with AFL-CIO Local 476 granting family leave benefits to include "any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship."

## STATES

**Delaware.** On January 1, 1992, "immediate family" was redefined in order to grant sick and bereavement leave to state employees with domestic partners.

**Massachusetts.** On September 24, 1992, the Governor issued an executive order granting sick and bereavement leave and hospital visitation rights to nonrepresented state government workers who register their same-sex domestic partners with the state.

**Oregon.** Pursuant to a collective bargaining agreement, state workers are entitled to take bereavement leave in the event of the death of a domestic partner.

## COUNTIES

**Alameda County, CA.** On March 1, 1990, the county expanded bereavement leave to include domestic partners.

**Dane County, WI.** The county offers bereavement leave for an employee's "alternative family."

**King County, WA.** In 1993, medical and other benefits were made available to domestic partners of county employees.

**Los Angeles, CA.** On August 4, 1993, a majority of the board of supervisors agreed to offer dental benefits to domestic partners of county employees. Delta Dental and Safeguard have agreed to provide such coverage.

**Marin County, CA.** On April 27, 1993, the county established a domestic partner registry entitling registrants to hospital visitation rights.

**Multnomah County, TX.** Effective July 1993, county employees represented by AFSCME Local 88 are entitled to domestic partner health benefits.

**San Mateo County, CA.** On July 1, 1990, the county added domestic partner coverage to its dental plan, employee assistance program, and bereavement leave policy. Medical and vision coverage were added in August 1992. About 85 employees have enrolled.

**Santa Cruz County, CA.** Since February 1, 1990, the county has offered health, dental, and vision coverage as well as sick and bereavement leave to domestic partners and their children.

**Travis County, TX.** In January 1991, the county extended family sick leave benefits to domestic partners and others who live in the same household and share a significant relationship of mutual caring with the employee.

## CITIES

**Ann Arbor, MI.** In November 1991, the city started a domestic partner registry. On August 17, 1992, the city council voted to extend health benefits and sick leave to city workers with same-sex domestic partners if they have registered with the city.

**Atlanta, GA.** On June 29, 1993, the mayor signed a bill creating a domestic partner registry. On August 12, 1993, the city enacted a bill that extends health, dental, and insurance plans, as well as sick, bereavement, and extended leave to city employees who have registered with a domestic partner. A lawsuit challenging the legality of these ordinances is pending in the Georgia Supreme Court.

**Berkeley, CA.** Since December 4, 1984, the city has offered sick and bereavement leave as well as health and dental benefits to domestic partners. These benefits were added as a result of collective bargaining between the city and various unions. Out of its 1,550 employees, 23 same-sex and 87 opposite-sex partners have signed up. In June 1991, a city-wide domestic partner registry was initiated.

**Boston, MA.** On January 27, 1993, the mayor vetoed a bill that would have extended health

benefits to domestic partners of city employees. He claimed that the bill conflicted with state law that authorizes benefits to government workers and their dependents (defined by state law as spouses and children). He also cited a projected cost of \$2 to \$8 million at a time of fiscal stringency. However, the mayor issued an executive order extending city leave policies to domestic partners.

**Brookline, MA.** On June 2, 1993, the city adopted a domestic partner registry.

**Burlington, VT.** The city grants health benefits to domestic partners who live together for six months and share the basic necessities of life.

**Cambridge, MA.** On September 14, 1992, the city council voted to create a domestic partner registry. Those who register are entitled to hospital and jail visitation and access to school records of the children of both partners. City employees with domestic partners are granted health and leave benefits.

**East Lansing, MI.** City officials announced on June 2, 1993, that health care benefits will be offered to same-sex domestic partners of city employees.

**Hartford, CT.** On June 14, 1993, the city council created a domestic partner registry.

**Ithaca, NY.** On August 8, 1990, the city adopted a domestic partner registry. Sick and bereavement leave were extended to city workers in 1991. As of 1992, only 24 partnerships were registered with the city and only one city employee out of a 400 member workforce had registered.

**Laguna Beach, CA.** Since October 1990, the city has offered medical and dental benefits to domestic partners of city employees. As of 1992, 6 of the city's 226 employees had signed up, all with opposite-sex domestic partners. In July 1992, the city began operating a domestic partner registry entitling registrants to family visitation privileges in city jails and hospitals. Persons who registered also are offered the option of signing a durable power of attorney for health care or a financial power of attorney when they register with the city clerk.

**Los Angeles, CA.** Since 1989, the city has offered sick leave and bereavement leave to domestic partners of city employees. By ordinance the city offers this benefit to nonrepresented employees. By resolution, the city has extended the benefit to unions that request it. So far, only 6 of the 40 bargaining

units have written such benefits into their contracts. Of 14,000 employees represented by these unions, 21 couples have signed up.

**Madison, WI.** In August 1988, city employees with domestic partners became entitled to sick and bereavement leave. As of 1992, 55 employees enrolled for this benefit out of a total of 2,683 city employees. In May 1990, the city council passed an ordinance prohibiting discrimination against domestic partners in public accommodations. The city started a domestic partner registry in June 1990. As of 1992, 76 couples had registered. Residents who register are entitled to live in areas zoned for single family use.

**Minneapolis, MN.** On January 25, 1991, the city council passed a domestic partner registration ordinance. As of 1992, the city reported that 222 partnerships had been registered. Those who register are entitled to hospital visitation privileges. The Civil Service Commission has authorized sick and bereavement leave for domestic partners. As of 1992, only 11 out of 450 employees had used domestic partner leave benefits. In 1993, the city council voted to extend medical benefits to same-sex partners only. On January 31, 1995, the Court of Appeal ruled that the city lacked authority to extend such benefits to city workers without first obtaining consent from the state Legislature. (*Lilly v. City of Minneapolis*, Case C6-94-1583.)

**New Orleans, LA.** On June 15, 1993, the city council set up a domestic partner registry.

**New York, NY.** In 1993, Mayor Dinkins issued an executive order creating a domestic partner registry for city employees and city residents. Registrants are entitled to family visitation privileges in city hospitals and jails and succession rights in rent controlled apartments. Pursuant to settlement of a lawsuit against the city, employees now receive health and dental benefits as well as sick and bereavement leave for their domestic partners.

**Oakland, CA.** In March 1992, the city offered dental and vision benefits to domestic partners of city employees.

**Sacramento, CA.** On October 13, 1992, the city adopted a domestic partner ordinance. Domestic partners may register with the city clerk. Those who register are entitled to hospital visitation privileges and are entitled to housing protections as family members. Private employers in the city that offer unpaid family leave also must offer such leave to domestic partners of employees.

**San Francisco, CA.** The city began operating a domestic partner registry on February 14, 1991, for persons who work or live in the city. Since July 1, 1991, the city has offered health benefits to domestic partners and eligible children of domestic partners of city employees. The city also offers sick, bereavement, and unpaid extended leave to domestic partners. In 1992, only 287 employees out of 32,000 workers signed up. About 53% of enrollees are opposite-sex couples.

**Santa Cruz, CA.** As a result of a collective bargaining agreement, the city has offered medical, dental, and vision benefits and family leave protections city workers with domestic partners since May 1, 1986. In 1992, only 20 employees out of its 650 member workforce were enrolled.

**Santa Fe, NM.** The city offers family leave benefits to employees with domestic partners.

**Seattle, WA.** The city extended sick leave and bereavement leave to government workers with domestic partners in August 1989. Opponents tried to repeal the benefits with an initiative. In November 1990, voters rejected the repeal measure. Since May 1, 1990, the city has extended health and dental coverage to city workers with domestic partners. After its first year of operation, only 230 of the city's 10,000 employees signed up for health benefits. Most were opposite-sex couples.

**Tacoma Park, MD.** Since 1986, the city has offered medical insurance, sick leave and bereavement leave to city employees with domestic partners who are members of AFSCME. Tenants are also protected as family members under the city's housing code. In July 1993, benefits were extended to non-union employees.

**Washington, DC.** The city council adopted a domestic partner registry in April 1992. The council also voted to extend benefits to city employees with domestic partners but Congress has overruled that measure each year since 1992. In 1990, the district passed a family leave act that requires private employers to provide unpaid leave to enable an employee to care for a seriously ill family member, which includes a person with whom the employee shares a mutual residence and a committed relationship.

**West Hollywood, CA.** In 1985, the city council adopted a domestic partner registry. Registrants are entitled to family visitation privileges in city jails and hospitals. As of 1992, 395 partnerships have been filed and 70 have been

terminated. On February 21, 1989, the city council extended sick leave, bereavement leave and medical benefits to city employees with domestic partners.

**West Palm Beach, FL.** Since May 1991, the city has offered bereavement leave to city employees with domestic partners.

## SCHOOL DISTRICTS

**Berkeley Unified School District.** Since July 1, 1985, the district has offered health and dental benefits and bereavement leave to domestic partners.

**San Jose School Unified District.** Since July 1, 1990, the district has offered sick and bereavement leave to employees who have "significant others."

### Some Municipalities With City-Wide Registries

The following cities have established systems in which domestic partners may register with the city clerk and receive a certificate as evidence that a domestic partnership exists.

Ann Arbor, MI	Laguna, CA
Atlanta, GA	Madison, WI
Berkeley, CA	Minneapolis, MN
Brookline, MA	New York, NY
Cambridge, MA	Sacramento, CA
Hartford, CT	San Francisco, CA
Ithica, NY	Washington, DC
	West Hollywood, CA

### Some Cities Offering Health Benefits

The following cities allow employees to sign up their domestic partner and eligible children on a medical plan at work.

Ann Arbor, MI *	Multnomah, OR
Atlanta, GA	New York, NY
Baltimore, MD *	Rochester, NY
Berkeley, CA	Sacramento, CA
Berkeley Schools	San Diego, CA
Burlington, VT	Santa Cruz, CA
Cambridge, MA	Santa Cruz Co., CA
East Lansing, MI *	San Francisco, CA
Hartford, CT	San Mateo, CA
King County, WA	Seattle, WA
Laguna Beach, CA	Tacoma Park, MD
Los Angeles, CA	West Hollywood, CA

\* In these cities employee benefits are available only to same-sex couples who register.

## ***PRIVATE COMPANIES OFFERING DOMESTIC PARTNER BENEFITS***

The following is a partial list of employers with domestic partner benefits programs as of August 1993. For a list of additional employers that began offering such benefits in 1994, please refer to the box on page 8.

**Ben and Jerry's Inc.** The ice cream company has offered paid leave and health benefits to domestic partners since 1989. The company's health plan carrier is Consumers United Insurance.

**Beth Israel Medical Center.** In January 1992, the medical center expanded its benefits plan (health, dental, vision, hearing, life insurance) to include domestic partners of non-union employees.

**Borland International Inc.** This high-tech company offers health benefits to either a same-sex or an opposite-sex partner of an employee. To qualify, couples must be in a relationship for at least six months, must have the same principal residence, and must share responsibility for the financial management of the household.

**Consumers United Insurance Company.** This company offers health benefits, sick leave and bereavement leave to its employees

**Garfinkel's Department Store.** In March 1990, the store, which operates in D.C., Maryland and Virginia, started offering spouse discount privileges to unmarried partners of employees.

**Hilton Corporation.** On January 26, 1993, the Hilton Corporation reached an agreement with the Boston Hotel Union to provide comprehensive health benefits (including health, dental, and vision care), education benefits, housing assistance, legal services, and pension rights to same-sex and opposite-sex domestic partners of employees who work in the Boston area.

**Home Box Office.** In 1993, HBO has adopted a benefits plan that includes coverage for same-sex partners of its employees.

**Kaiser, Northeast Region (MA).** Gay and Lesbian Advocates and Defenders negotiated domestic

partner benefits for a gay doctor who works for Kaiser in Massachusetts.

**Levi Strauss.** The company began offering health insurance coverage to employees with domestic partners on June 1, 1992. Employees and their partners must live together, be financially interdependent, and have joint responsibility for each others common welfare. The company expects about 2% of its workers to sign up. Initial registration figures show that 58% of those have registered are male-female couples.

**Lotus Development Corp.** In September 1991, Lotus introduced a benefits plan that includes same-sex partners of company employees. By June 1992, about 1% of the company's 3,000 workers had signed up.

**Marriott Corporation.** On January 26, 1993, the Marriott Corporation reached an agreement with the Boston Hotel Union to provide comprehensive health benefits (including health, dental, and vision care), education benefits, housing assistance, legal services, and pension rights to same-sex and opposite-sex domestic partners of employees who work in the Boston area.

**Microsoft Corp.** The company offers health benefits to domestic partners.

**Minnesota Communications Group (St. Paul).** Since January 1, 1992, the company offers health and dental coverage to domestic partners. Employees must pay for the cost of coverage for spouses, domestic partners or other eligible dependents. Two-thirds of those who have registered are opposite-sex couples.

**MCA/Universal.** On July 1, 1992, the company began offering benefits to workers with same-sex "spousal equivalents".

**Montefiore Medical Center (NY).** In April 1991, the hospital began to offer employee benefits (including health benefits) to workers with same-sex domestic partners. After a year, 18 of the company's 3,500 non-union workers has signed up.

**Omni Corporation.** On January 26, 1993, the Omni Corporation reached an agreement with the Boston Hotel Union to provide comprehensive health benefits (including health, dental, and vision care), education benefits, housing assistance, legal services, and pension rights to same-sex and opposite-sex domestic partners of employees who work in the Boston area.

**Silicon Graphics Inc.** Effective October 1, 1992, the company offers the same fringe benefits to same-sex domestic partners as it offers to spouses. Partners must sign a spousal equivalency affidavit.

**Sheraton Corporation.** On January 26, 1993, the Sheraton Corporation reached an agreement with the Boston Hotel Union to provide comprehensive health benefits (including health, dental, and vision care), education benefits, housing assistance, legal services, and pension rights to same-sex and opposite-sex domestic partners of employees who work in the Boston area.

**Time Magazine.** Time offers paid sick-care and bereavement leave for the "companion" of a worker. Time's nepotism policy forbids supervision of or by a relative, including a "companion."

**Viacom.** The company offers the same fringe benefits to same-sex domestic partners as it offers to spouses.

**Village Voice.** Pursuant to its 1981 with UAW Local 65, the newspaper began offering sick and bereavement leave to employees with domestic partners. Health benefits were added the following year. An equal number of same-sex and opposite-sex couples have signed up for domestic partner benefits.

**Walker Arts Center.** In July 1992, the center began reimbursing employees \$70 per month to help pay for medical coverage for a domestic partner.

**Warner Brothers.** The company offers fringe benefits to same-sex domestic partners of employees.

**Woodward and Lothrop, Inc.** After a lawsuit in 1989, Woodies broadened its family discount policy to include domestic partners of store employees.

## THE LIST GROWS IN 1994

The following public and private employers initiated domestic partner benefits programs during 1994:

### States:

State of Vermont

### Cities:

City of Chicago, IL  
City of Iowa, IO  
City of New York, NY  
City of Oak Park, IL  
City of Portland, OR  
City of Rochester, NY  
City of San Diego, CA

### Counties:

Hennepin County, MN

### Universities:

Brown University  
New York University  
Thomas Jefferson Univ.  
University of Michigan  
University of New Mexico  
University of New York  
University of Pennsylvania  
Wellesley College

### Private:

Advanced Micro Devices  
Blue Cross of Massachusetts  
Bureau of National Affairs  
Cambridge Technology Partners  
Capital Cities / ABC  
David Sarnoff Research Center  
Genetech, Inc.  
Mark Hopkins Hotel  
Northern States Power  
Novell Corporation  
Paramount Pictures  
Park Nicolet Medical Center  
New York Times  
SAS Institute, Inc.  
Seattle Times  
Sony Entertainment  
St. Paul Companies

### Nonprofit:

Jewish Board of Family  
& Children's Services  
Wilder Foundation



# A MODEL DOMESTIC PARTNERSHIP LAW

## REGISTRATION PROVISION

### Section 1. Purpose

The purpose of this law is to create a way to recognize intimate committed relationships of people who are otherwise denied the right to identify the partners with whom they share their lives as members of each other's immediate family.

### Section 2. Findings

Family demographics have changed dramatically over the years. Whereas the nuclear family of breadwinner-husband and homemaker-wife with minor children at home once comprised a majority of American households, today these families constitute less than 14% of households nationally.

Single adults living alone, single parents with children, dual-career married couples, extended families, and domestic partners now comprise the majority of American households. The majority of households in most cities, including [insert name of city], do not contain a married couple.

Domestic partners live together in the context of an intimate and committed family relationship. However, they are often denied public and private-sector benefits, often because society has not provided a mechanism for them to register their relationships much the same as spouses can obtain a marriage certificate or parents and children have a birth certificate or adoption decree as proof of their relationships.

The [insert name of city] finds that domestic partners comprise a significant percentage of the households of this jurisdiction. Domestic partners are often subject to marital status discrimination in employment, housing, and public accommodations. The enactment of this registration ordinance is means of attempting to eliminate such discrimination.

### Section 3. Definitions

(a) *Domestic Partners.* "Domestic partners" are two adults who have chosen to share one another's lives in an intimate and committed family relationship of mutual caring. The requirements for two persons to be domestic partners are:

- (1) they live together;
- (2) they consider themselves to be members of each other's immediate family;
- (3) they agree to be jointly responsible for each other's basic living expenses during the domestic partnership;
- (4) neither of them is married or a member of

another domestic partnership;

(5) they are not related by blood in a way that would prevent them from being married to each other under the laws of [insert name of state];

(6) each is at least 18 years old;

(7) they must each sign a Declaration of Domestic Partnership as provided for in Section 4.

(b) *Live Together.* "Live together" means that two people share the same place to live. It is not necessary that the legal right to possess the place be in both of their names. Two people may live together even if one or both have additional places to live. Domestic partners do not cease to live together if one leaves the shared place but intends to return.

(c) *Joint Responsibility for Basic Living Expenses.* "Basic living expenses" means basic food and shelter. It also means any other cost, such as for medical care, if some or all of the cost is paid as a benefit to one or both partners because they have registered as domestic partners under this ordinance. "Joint responsibility" means that each partner agrees to provide for the other's basic living expenses while the domestic partnership is in effect if the partner is unable to provide for himself or herself. It does not mean that the partners need contribute equally or jointly to basic living expenses. Anyone to whom these expenses are owed can enforce the responsibility established by this section.

(d) *Declaration of Domestic Partnership.* A "Declaration of Domestic Partnership" is a form provided by the city clerk. By signing it, two people swear under penalty of perjury that they meet the requirements of the definition of domestic partnership when they sign the statement. The form shall require each partner to provide a mailing address.

### Section 4. Establishing a Domestic Partnership

(a) *Methods.* Two persons may establish a domestic partnership by either of the following methods:

(1) presenting a signed Declaration of Domestic Partnership to the City Clerk, who will file it and give the partners a certificate showing that the declaration was filed; or

(2) having a Declaration of Domestic Partnership notarized and giving a copy to the person who witnessed the signing (who does not necessarily have to be the notary).

(b) *Time Limitation.* A person can not become a member of a domestic partnership until at least six months after any other domestic partnership of which he or she was a member has ended and a notice that the

## BASIC LAW (cont.)

partnership has ended was given as provided for in Section 5. This does not apply if the earlier domestic partnership has ended because one of the partners had died.

### Section 5. Ending Domestic Partnerships

(a) *When the Partnership Ends.* A domestic partnership ends when:

- (1) one partner sends the other a written notice that he or she has ended the partnership; or
- (2) one of the partners dies; or
- (3) one of the partners marries or the partners no longer live together.

(b) *Notice the Partnership Has Ended.* One or both domestic partners must give notice that the partnership has ended as required by this section.

(1) *To Domestic Partners.* When a domestic partnership ends for a reason other than the death of one of the partners, at least one of the partners must sign a notice saying that the partnership has ended. The notice must be dated and signed under penalty of perjury. If the Declaration of Domestic Partnership was filed with the city clerk, the notice must be filed with the clerk; otherwise the notice must be notarized. The partner who signs the notice must send a copy by certified mail to the last known address of the other partner.

(2) *To Third Parties.* When a domestic partnership ends, a domestic partner who has previously given a copy of a Declaration of Domestic Partnership to any third party in order to qualify for any financially valuable benefit (or, if that partner has died, the surviving member of the partnership) must give the third party a notice signed under penalty of perjury saying that the partnership has ended. The notice shall be sent by certified mail to the last known address of the third party within 60 days of the end of the partnership. A third party who suffers a loss as a result of failure to receive this notice may sue the partner who was obligated to send it for any actual loss resulting thereby.

(3) *Failure to Give Notice.* Failure to give notice as required by this section will neither prevent or delay ending of the domestic partnership.

### Section 6. City Clerk's Records

(a) *Amendments to Declarations.* A domestic partner may amend a Declaration of Domestic Partnership

filed with the City Clerk at any time to show a change of his or her mailing address.

(b) *New Declarations of Domestic Partnership.* No person who has established a domestic partnership through the city clerk or through a notary may establish a new domestic partnership by either of these methods until six months from the time notice has been given of the termination of a previous domestic partnership. However, if the domestic partnership has ended because one of the partners has died, a new Declaration may be filed anytime after any required notice that the partnership has ended has been filed.

(c) *Maintenance of City Clerk's Records.* The city clerk will keep a record of all Declarations, Amendments, and all notices of termination. The records will be maintained so that Amendments and notices are filed with the Declarations of Domestic Partnership to which they apply.

(d) *Filing Fees.* The City Council shall set the amount of the filing fee for Declarations and Amendments. No fee shall be charged for notices that a partnership has ended. The fees charged shall cover the city's costs of administering this ordinance.

### Section 7. Legal Effect

(a) *Obligations.* The obligations of domestic partners are those described in Section 3.

(b) *Duration of Rights and Duties.* When a domestic partnership ends and notice has been given, the partners shall incur no further obligations to each other or to third parties as a result of this ordinance.

## ADDITIONAL OPTIONAL PROVISIONS

### Section 8. Discrimination

The city will not discriminate against domestic partners in any of its programs, policies, or practices. This includes, but is not limited to, using the status of being married as a factor in any manner unless the status of being a domestic partner is used in the same way.

### Section 9. Visitation in Licensed Facilities

(a) *Patient Designation.* If a health care facility or any licensed residential facility restricts the visitors of a patient or resident, it shall allow the patient or resident to name those individuals whom he or she wishes to allow to visit, unless:

- (1) no visitors are allowed; or
- (2) the facility decides that the presence of a particular visitor named by the patient or resident would endanger the health or safety of a patient or resident, or would endanger the primary operations of a facility.

**BASIC LAW (cont.)**

(b). *Patient's Who Do Not Designate.* If a patient or resident has not made the designation provided for in subsection (a), and if he or she has not indicated a desire to have no visitors, the facility shall allow his or her domestic partner and/or domestic partner's children, and/or the domestic partner of the patient's or resident's parent or child to visit, unless one of the exceptions described in subsection (a)(1) or (a)(2) applies.

**Section 10. Jail Visitation**

Unless an inmate indicates a desire to have no visitors, city jails shall allow the inmate's domestic partner, children of the domestic partner, or domestic partner of the inmate's parent or child to visit on the same terms as visitation by spouses, parents, and children of inmates.

**Section 11. City Contractors**

A contract in which the city code requires a nondiscrimination clause shall also contain a provision requiring that if a contractor allows employees, or any class of employees, to have sick leave or bereavement leave for spouses or other family members or to have unpaid family leave, it shall allow employees with domestic partners to have such leaves on the same terms and conditions as leaves for spouses or other immediate family members. Any employer covered by this section may require an employee to show proof that he or she has registered with the city clerk under this ordinance.

**Section 12. Durable Power of Attorney**

A domestic partner statement may, at the election of the domestic partners, encompass or incorporate a durable power of attorney for health care provided that it complies with the requirements of the laws of [insert name of state].

*\* This basic law was developed by Matt Coles, staff attorney at Northern Cal. A.C.L.U. and Thomas F. Coleman, executive director of Spectrum Institute.*

***Some Family Demographics***

<i>Household Type:</i>	<i>United States</i>	<i>Calif-ornia</i>	<i>L.A. City</i>
<b>One person</b>	<b>24.6%</b>	<b>23.4%</b>	<b>28.5%</b>
<b>Married Couple</b>	<b>55.1%</b>	<b>52.7%</b>	<b>42.6%</b>
<b>Single Parent</b>	<b>9.3%</b>	<b>10.0%</b>	<b>11.7%</b>
<b>Extended Family</b>	<b>5.7%</b>	<b>6.1%</b>	<b>8.1%</b>
<b>Unrelated Adults</b>	<b>5.3%</b>	<b>7.8%</b>	<b>9.1%</b>

These figures are taken from the 1990 Census of Population and Housing. The census does not use the term "domestic partners." Estimates of domestic partners are taken from the census category of unrelated adults.

***Census Bureau Counts Unmarried Partners***

For the first time in 1990, the United States Census Bureau asked unrelated adults who lived together to identify themselves as either "unmarried partners" or "roommates/housemates." In 3,187,772 households in the nation, the answer was "unmarried partners." A similar number of respondents identified as roommates instead. Of those who checked off the "unmarried partner" box, about 95% were opposite sex couples and 5% were same-sex couples. The failure of more same-sex couples to identify themselves as unmarried partners has been attributed by some analysts as being due to distrust of government and fear of discrimination.

# RESOURCES

## PUBLICATIONS

**International Foundation of Employee Benefits:** "Domestic Partner Benefits: Employer Considerations" [12 pages] Call publications dept. at (800) 466-2366, ext. 358.

**City of West Hollywood:** "Understanding the Domestic Partner Dilemma: Perspectives of Employer and Insurer" [130 pages] Call the Human Resources Officer at (310) 854-7400

**National Gay and Lesbian Task Force:** "Domestic Partnership Organizing Manual" [125 pages] Call the NGLTF Policy Institute at (202) 332-6483

**Lambda Legal Defense and Education Fund:** "Domestic Partnership: Issues and Legislation" [120 pages] Call Lambda at (212) 995-8585

**City of Seattle:** Annual Reports on "Extension of Medical/Dental Benefits to Domestic Partners. [14 pages] Call Sally Fox, Benefits Specialist, at (206) 684-7957

**CQ Researcher:** "Domestic Partners," Sept. 4, 1992, Vol. 2, No. 33, pages 761-784. [23 pages] Call (800) 432-2250

## GENERAL ADVOCACY

**Partners Task Force for Gay and Lesbian Couples, P.O. Box 9685, Seattle, WA 98109 / (206) 935-1206**

## BENEFITS MANAGERS

**Ben & Jerry's Homemade Inc.:** Kathy Chaplin, Personnel Manager, at (802) 244-5641

**Levi Strauss:** W. Reese Smith, Director of Employee Benefits, at (415) 544-6172

**City of Berkeley:** Nancy Elder, Risk Manager, at (510) 644-6480

**City of San Francisco:** Bill Irwin, Administrative Assistant, Health System Service Board, at (415) 554-1700

## UNIONS

**SEIU:** International Research Department, Elizabeth Engburg, at (800) 424-8592

**AFL/CIO:** Hotel, Restaurant, & Bartenders Union, Local 26, Janice Loux, Benefits Officer (negotiated contract with four large hotels in the Boston area), at (602) 423-3335

**Textile Workers Union:** Arkansas District (negotiated contract with Levi Strauss) at (501) 562-2907

## ENTERTAINMENT INDUSTRY ADVOCACY

**Hollywood Supports, 8455 Beverly Blvd., Suite 305, Los Angeles, CA 90048 / (213) 962-3118**

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*Spectrum Institute is a nonprofit corporation promoting respect for human diversity. With figures from the Census Bureau showing that 45% of the nation's households do not contain a married couple, and with projections that unmarried adults will soon constitute half of the nation's households, Spectrum Institute believes that the time has come to stop discrimination against single people who live together. Unmarried taxpayers should not have to subsidize the benefits of married couples, but should receive equal treatment under the law as well as in the workplace.*