

Singles Rights Advocate

Newsletter of the Singles Rights Lobby for unmarried adults, couples, parents, and families

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Legislation for Unmarried Couples

Domestic Partnership Catching on in State Legislatures

San Francisco was the first place where domestic partnership legislation was introduced. The year was 1981.

The bill would have required the city to treat domestic partners in the same manner that it treated married couples – across the board. After it easily passed the Board of Supervisors, the bill was vetoed by then-mayor Diane Feinstein.

No one had examined the fiscal impact of such a sweeping measure and Feinstein said she was not about to sign a blank check. Furthermore, even though both same-sex and heterosexual couples were eligible for its protections, the bill excluded unmarried blood relatives. Feinstein found this to be unfair.

It took nearly 10 years, and two ballot votes, until more modest domestic partnership bills became law in San Francisco. Additional protections were then added on a piecemeal basis.

San Francisco now has a local registry for domestic partners, hospital visitation rights, benefits for local government workers, and a mandate that city contractors give benefits to domestic partners of their own employees. All of these protections apply equally to registered partners of the same sex or opposite sex. Unmarried blood relatives are excluded.

Today, several dozen cities throughout the nation have registries or employee benefits programs or both. Most of them are open to same and opposite-sex couples alike.

Domestic partnership remained a local political issue until 1994 when the first state-wide

bill was introduced in the California Legislature.

Two years later, domestic partnership bills were filed in the legislatures of Hawaii and New York. The senate in Hawaii passed a comprehensive domestic partnership act that year, only to see it die in the House. Bills in New York have never moved out of a policy committee.

California finally enacted a state-wide domestic partnership law last year. The new law includes a registry with the Secretary of State and the framework for extending benefits to state employees. Both systems are open to same-sex couples over 18 years of age, and heterosexual couples if both parties are at least 62 years of age.

This year has seen a flurry of bills introduced in several states, with the most visible being Vermont where lawmakers are under a court order to legalize same-sex marriage or pass a comprehensive domestic partnership law.

Bills are also pending in California, Florida, Massachusetts, New Hampshire, Rhode Island, Washington and Wisconsin. A bill with a significant number of legal protections may be introduced in New Jersey later this year.

The issue of domestic partnership is now being discussed by presidential candidates, with both contenders for the Democratic nomination jumping on the “dp” bandwagon. Republican support has mostly been limited to some state and local elected officials.

This edition of Singles Rights Advocate is devoted exclusively to domestic partnership legislation, particularly as a state legislative issue.

Focus on Vermont

Who's In and Who's Not

By Thomas F. Coleman

There is a major issue for the Vermont Legislature to decide as it responds to the challenge posed by the Supreme Court's decision in *Baker v. State*. In that case, the court ordered lawmakers to either legalize same-sex marriage or enact a comprehensive domestic partner law.

If the option of domestic partnership is chosen, will this become a new legal institution restricted to same-sex couples or will it be open to other unmarried adults who are willing to assume the legal and economic obligations associated with the new law?

This is an important question which deserves careful consideration, not only in Vermont but in any region of the nation where a public entity or private employer is looking at the issue of domestic partnership.

Census data reveal that unmarried couple households in the nation are 70% opposite sex and 30% same sex. Gender-neutral domestic partner benefits programs show similar results, with about two-thirds of participating employees having heterosexual relationships and one-third having homosexual relationships. Will Vermont enact a domestic partnership law which excludes the majority of domestic partners?

The concept of domestic partner benefits was introduced in Vermont many years ago with the advent of a new employee benefits program at Ben & Jerry's, the famous ice cream company. That program was, and still is, open to all domestic partners regardless of gender.

A few Vermont cities, such as Burlington and Middlebury, adopted a similar program for municipal employees. Again, a decision was made to include unmarried heterosexual couples as well as same-sex partners.

Eventually, the State of Vermont itself adopted a domestic partner benefits program for state workers. That program is also gender-neutral. Will this tradition of inclusiveness end with the passage of a sexist domestic partner law limited to same-sex couples?

It should come as no surprise that gender-neutral domestic partner programs and laws are a goal of the National Organization for Women. On January 25, 1999, Patricia Ireland, national president of NOW, wrote the following letter to the Governor of Hawaii:

"I am writing to encourage you to endorse passage of a comprehensive, gender-neutral domestic partnership act in Hawaii. I am sure you are aware that the National Organization for Women is committed to the rights of all women and believes that equal benefits should be granted to all domestic partnerships, regardless of sex or sexual orientation.

"The passage of this act will pave the way for other states to introduce and enact similar legislation. States should no longer deny same-sex partners legal benefits equivalent to marriage or force opposite-sex partners to marry to legitimize their families. Simply put, states should be in the business of supporting families, not limiting them.

"Through the passage of a gender-neutral, comprehensive domestic partnership act, families will no longer face an uncertain financial future due to catastrophic illness or death; nor will the children of domestic partners be denied coverage for their health and welfare.

"I hope that you will support the proposed legislation."

Many seniors organizations also support domestic partnership programs and laws that are open to all unmarried adults, not just gays and lesbians. For example, the American Association of Retired Persons (AARP) has instituted a gender-neutral domestic partner program for its own employees. The California Chapter of AARP lobbied for years for the passage of a statewide registry for domestic partners.

The California Congress of Seniors, which represents more than 500,000 older adults in the state, insisted that domestic partnership should be

(continued on page 3)

Which Way for Vermont? (continued)

open to opposite-sex as well as same-sex couples. As a result of some hard work by Singles Rights Lobby, the new registration law which was signed by the Governor last year moved beyond a "gays only" model to include heterosexual seniors too.

Will the Vermont Legislature ignore the position of groups like NOW and AARP by excluding opposite-sex partners from the new legislation? If so, why? If unmarried heterosexual couples are willing to assume the obligations imposed by the new law, why should they not reap the "common benefits" it would afford them?

Some would argue: *"Let them get married if they want protections and benefits."*

This argument is premised on a lack of understanding as to why many heterosexual couples do not marry and instead want domestic partnership. There are a variety of economic, religious, philosophical, political, and other personal reasons why opposite-sex couples may choose domestic partnership.

If unmarried heterosexual couples are willing to assume all of the obligations of domestic partnership, which would include all of the state-law obligations of marriage, then what policy reason exists to exclude them from the domestic partner law?

Unmarried blood relatives cannot legally marry each other. So why would they be excluded from a domestic partnership law? Is there something about the sexual relationship of two men or of two women which makes a gay or lesbian relationship more valuable or worthy of protection than the relationship of two unmarried blood relatives?

Since Vermont is creating the first state-wide comprehensive domestic partnership law in the nation, why does a presumption of sexual conduct have to be built into the law? Could not domestic partnership be based on a primary-family-partner model rather than on a marriage-sexual-relationship model?

Removing the presumption of sexual conduct from domestic partnership could have helpful political consequences. Some religious opposition might be reduced by such a move.

For example, when SB 118 was amended by California Senator Tom Hayden to include any two unmarried adults who meet the criteria, the association of Catholic bishops withdrew its opposition and actually supported this domestic partnership bill.

Also, the Archbishop of San Francisco found a way to comply with the city's new nondiscrimination law which required contractors and grant beneficiaries to give the same benefits to domestic partners as they give to spouses. Catholic Charities broadened its benefits plan to allow each employee to select one adult household member for benefits, whether a spouse, a domestic partner, or a blood relative.

Several large corporations have since followed this broad and inclusive model. Bank of America was the first to create an extended family benefits program, open to a domestic partner of either sex or a dependent blood relative of the employee. That plan has been copied by Nations Bank, Bank Boston, Chase Manhattan, Merrill Lynch, and Prudential Life Insurance.

Is cost a reason to limit a new domestic partner law to same-sex couples? Studies show that costs associated with gender-neutral benefits plans are minimal with only about one percent of employees signing up. Plans that include blood relatives show an additional increase in enrollment of about four-tenths of one percent (0.4%).

One would expect that participation in a comprehensive domestic partner legal system would be even smaller, considering the wide range of obligations imposed on partners as compared with minimal obligations associated with an employee benefits plan.

An article published by the Boston Globe on February 21, 2000, suggested that gay rights advocates oppose an inclusive domestic partnership law because a gay-only law would show societal recognition of same-sex relationships. That political message, they believe, would be diluted if others are allowed to participate.

Should the Legislature adopt a "gay rights" goal as its own, or should a broader range of unmarried family relationships receive the same

(continued on page 4)

Which Way for Vermont? (continued)

"common benefits" as gay and lesbian couples who sign up under the new law?

Besides, many gay rights leaders and organizations support inclusive and gender-neutral domestic partnership laws and programs. For example, the Log Cabin Clubs of California registered its opposition when some politicians tried to turn a gender-neutral domestic partner bill into a "gays only" measure last year.

The National Gay and Lesbian Task Force has taken a strong position favoring inclusive domestic partnership programs open to heterosexuals and same-sex couples alike.

Kerry Lobel, executive director of the Task Force released an op-ed article on May 11, 1999, in which she wrote:

"And these benefits are not limited to the [gay-lesbian-bisexual-transgendered] community; domestic partnership recognizes the importance of allowing individuals to define their own family structures for themselves, and facilitates the equal treatment of each and all. In working toward domestic partnership, we stand with our unmarried heterosexual, aging, and disabled allies, and others who may choose not to marry for a variety of reasons."

Urvashi Vaid, director of the Policy Institute of the National Gay and Lesbian Task Force was even more forceful in her defense of gender-neutral domestic partnership, stating in a letter to Spectrum Institute on October 23, 1998:

"The benefits of domestic partnership should not be restricted to gay, lesbian, bisexual and transgendered people. Instead, domestic partnership should be a vehicle through which the traditional family definitions are redefined to include a wider variety of families, including heterosexual unmarried couples. Just as discrimination based on sexual orientation is wrong, discrimination based on marital status is wrong."

The overwhelming majority of municipalities in the nation with domestic partner registries or employee health benefits programs have chosen the inclusive method by adopting gender-neutral plans. Most private-sector compa-

nies have done the same.

The international trend also is moving toward gender-neutral domestic partnership laws. Belgium's new Cohabitation Contract Law is open to any two adults, regardless of gender or blood relationship. In France, a new Contract of Civil Union law confers many of the benefits and obligations of marriage on same-sex or opposite-sex unmarried couples who register with local municipal clerks.

The federal government in Canada introduced a bill on February 11, 2000, to amend 68 federal laws to give benefits and protections to domestic partners. Unmarried same-sex couples and opposite-sex couples are treated the same in this sweeping measure.

Will Vermont join these leaders in the international community by respecting the human rights of all domestic partners regardless of the gender of the partners?

No state in this country has adopted a "gays only" domestic partnership benefits program. As mentioned above, Vermont has a gender-neutral program for state employees. Oregon and New York are also completely gender-neutral in their domestic partner employee benefits plans. California considered, and then rejected, a law limited to same-sex partners.

Within the last few months, Los Angeles and Seattle adopted city contractor nondiscrimination laws that require contractors to offer gender-neutral domestic partner benefits to their own employees. Does Vermont want to build upon a national domestic partnership system that is primarily gender-neutral or will it create a sexist model that bucks this trend of inclusivity?

These policy questions need to be addressed by the Vermont Legislature. Local gay rights advocates who favor same-sex marriage in Vermont do not seem to be asking these questions. Neither are the religious organizations which apparently oppose any reform whatsoever.

Sooner or later, each member of the Legislature must confront these questions head on. *Will domestic partnership be sexist or gender neutral? Inclusive or restrictive? Which political path will be taken in Vermont?* ◇◇◇

Pending Bills



Wisconsin ✓

This is the only state, other than Vermont, where a comprehensive domestic partnership bill is currently pending. AB 608 is very similar to what is being considered in Vermont.

Wisconsin also has a bill pending (AB 609) which is more limited. That bill would give domestic partner benefits to government employees.

Both bills would apply equally to same-sex and heterosexual unmarried couples.

AB 608 is sponsored by Rep. Frank Boyle, Room 221 North, State Capitol, P.O. Box 8952, Madison 53708-8952 / (608) 266-0640 / Fax (608) 266-7038 / e-mail: Rep.Boyle@legis.state.wi.us.

AB 609 is sponsored by Rep. Mark Pocan, Room 418 North, State Capitol, P.O. Box 8953, Madison 53708-8953 / (608) 266-8570 / e-mail: Rep.Pocan@legis.state.wi.us.

Washington ✓

HB 2037 would include domestic partners as dependents in state employment benefits.

HB 2038 would grant family sick leave and bereavement leave to state workers if their domestic partner were to become ill or die.

Both bills are gender neutral and are sponsored by Rep. Edward Murray, PO Box 40600, 243 John L. O'Brien Bldg., Olympia, WA 98504-0600 / (360) 786-7826 / Fax: (206) 720-3097 / e-mail: murray_ed@leg.wa.gov

Rhode Island ✓

HB 5619 would give benefits to domestic partners of state employees. It applies to same and opposite-sex couples alike. The bill is sponsored by Rep. Michael Pisaturo, 6 Winthrop St. Apt. #1, Cranston, RI. 02910 / (401) 946-1905 / e-mail: rep-pisaturo@rilin.state.ri.us

New York ✓

This state has five bills pending. AB 7463 would amend the election law to treat domestic partners the same as spouses and other close

family members. The bill is sponsored by Rep. James Brennan, 826 Legislative Office Building, Albany, NY 12248 / (518) 455-5377 / e-mail: brennaj@assembly.state.ny.us

SB 2670 would allow a survivor to use his or her deceased partner's sick leave if the deceased partner is a state civil servant. SB 2745 establishes priority for the designation of persons who may control the disposition of remains of a deceased person. Both bills are sponsored by Sen. Marty Markowitz, 406 Legislative Office Building, Albany, NY 12248 / (518) 455-2431 / e-mail: Markowit@senate.state.ny.us

SB 3273 would create a state registry, prohibit discrimination against domestic partners in employment, housing, and business transactions, and require insurance companies to offer coverage to domestic partners just as they offer coverage to spouses. AB 6286 is the same as SB 3273. SB 3273 is sponsored by Sen. Eric T. Schneiderman, 517 Legislative Office Building, Albany, NY 12248 / (518) 445-2041 / e-mail: Schneide@senate.state.ny.us

All of these bills apply equally to same-sex and opposite-sex domestic partners.

New Hampshire ✓

HB 1567 would give benefits to the domestic partners of public employees. It applies to same and opposite-sex domestic partners. The bill, which the full House has ordered further study on, is sponsored by Sen. Rick Trombley, Room 302, State House, Concord, NH 03301 / (603) 271-3043.

Massachusetts ✓

This state has four active bills pending. All but one are gender neutral.

SB 2048 would give public employees equal benefits in the workplace. It has passed the Senate and is pending in the House. The bill was sponsored by the Senate Committee on Ways and Means. Committee chair is: Sen. Mark Montigny, Room 212, State House, Boston, MA 02133 / (617) 722-1481 / Fax: (617) 722-1068 / e-mail: Mmontign@senate.state.ma.us.

HB 3377 is similar to SB 2048. HB 308 would do the same, but only applies to same-sex couples.

HB 4947 is limited to authorizing the town of Amherst to give domestic partner benefits to its employees.

Florida ✓

There are two bills pending in this state. Both are identical.

SB 686 and HB 29 would create a state registry for domestic partners, entitle them to hospital visitation rights, and require health insurance companies to offer domestic partner coverage on the same terms as they offer spousal coverage.

The definition of domestic partner in these bills is broader than usual in that it does not contain a blood-relative exclusion. Any two unmarried adults who meet the criteria are included in the bills.

By not excluding blood relatives, the bills remove any presumption that domestic partnership is a sexual relationship. It may be or it may not be, depending on the circumstances. The definition is similar to SB 118 in California.

HB 29 is sponsored by Representative Tracy Stafford, 128 S.E. First St., Ft. Lauderdale, FL 33301 / (954) 467-4510 / e-mail: stafford.tracy@leg.state.fl.us

SB 686 is sponsored by Senator Kendrick Meek, 18441 N.W. 2nd Avenue, Suite No. 515, Miami, FL 33169 / (305) 655-3671 / e-mail: meek.kendrick.web@leg.state.fl.us

California ✓

There are four active bills pending in California.

SB 118, a carry-over from last year when it passed the Senate, is pending in the Assembly. It would grant extended family leave rights to domestic partners, just as they are granted now for other close family relationships. SB 118 is sponsored by Sen. Tom Hayden, 10951 W. Pico Blvd. #202, Los Angeles, CA 90064/ (310) 441-9084.

The remaining bills are new. They are tied into the state-wide registry which began operating this year. The register is limited to same-sex couples of any age over 18 and opposite-sex couples if both parties are at least 62 years of age. As a result, in their current form each of the bills listed below excludes heterosexual couples between the ages of 18 and 62.

AB 1990 would grant a domestic partner the right to make medical decisions for his or her partner if the partner is hospitalized or incapable of giving informed consent. The bill is sponsored by Gloria Romero, Room 217 State Capitol, Sacramento, CA 95814 / (916) 319-2049 / e-mail: gloria.romero@assembly.ca.gov

AB 2047 would provide inheritance rights through intestate succession (dying without a will) for domestic partners. The bill is sponsored by Darrell Steinberg, Room 2176, State Capitol, Sacramento, CA 95814 / (916) 319-2009.

AB 2211 would provide several protections, including the following: the right to decide whether to have an autopsy performed or to make funeral arrangements after the death of a partner; the right to sue for wrongful death and negligent infliction of emotional distress (by-stander liability); priority to act as a conservator of an incapacitated partner; reciprocity of registry from other jurisdictions outside of California; and would include a place for domestic partners in the statutory will form. The bill is sponsored by Assemblywoman Sheila Kuehl, State Capitol, Sacramento, CA 95814 / (916) 319-2041 / (818) 501-8991.

Quotes on Domestic Partnership

“Legally recognized domestic partnerships carrying equal legal entitlements should be available to everyone.”

– *Abigail Van Buren*
Dear Abby Column
May 12, 1998

“Domestic partnership should be available to everyone – regardless of sex.”

– *Patricia Ireland*
President, National
Organization for Women
Press Release, Oct. 7, 1998

“The Respondent, City of Oakland, is directed to remedy the violation of Labor Code Section 1102.1, by taking the following actions immediately . . . Extend the employer-paid medical insurance benefits provided to same-sex registered partners to all registered domestic partners.”

– *Jose Millan*
Calif. Labor Commissioner
October 27, 1997

“[Domestic partnership] is an issue of importance to the senior community due to the large number of senior citizens who gain companionship, security, and independence by living with a partner, but choose not to marry due to laws and regulations governing Social Security benefits, pensions, and family obligations.”

– *Jack Philip, Chair, AARP*
Calif. Legislative Committee
March 18, 1997

“Two thirds (67%) of the public would favor a law granting legal recognition to domestic partners living together in a loving relationship to have family rights, such as hospital visitation rights, medical power of attorney, and conservatorship.”

– *California “Field Poll”*
February 1997

“Family is defined by Americans in emotional, rather than legal or structural terms. When offered three choices, only about one in five (22%) chose to define family in a legalistic way as ‘a group of people related by blood, marriage, or adoption.’ Nearly three quarters (74%) define family as ‘a group who love and care for each other.’”

– *Mass. Mutual “American*
Family Values” Survey
June 1989

“The biblical concept of family is a much broader vision than the modern family which is characterized as husband, wife, and a couple of children. The biblical concept centers around the obligation one had to one’s household. . . . Those who are living together in domestic partnerships are certainly one icon of what it means to be a family.”

– *Joint statement issued by 11*
ministers in Sacramento, CA
(Episcopal, Presbyterian,
Lutheran, Methodist, etc.)
April 10, 1997

Support Singles Rights Lobby

Singles Rights Lobby is the legislative advocacy affiliate of the American Association for Single People. We are the only national organization representing the political interests of some 80 million adults in the United States who are unmarried.

We invite you to support Singles Rights Lobby and to become a member of the American Association for Single People. AASP and Singles Rights Lobby work together as a team.

AASP is a tax-exempt nonprofit which works through educational means to promote the well being and civil rights of unmarried adults and domestic partners. Donations to AASP are tax deductible.

You can become a member of AASP by making a tax-deductible donation of \$10 or more to AASP. Call AASP at (800) 993-AASP for a brochure and application, or you can obtain an application form on its website at www.singlepeople.org.

Singles Rights Lobby works in the political arena, promoting and opposing legislation as well as prodding politicians and political parties to pay attention to the needs of unmarried Americans.

Although Singles Rights Lobby is a nonprofit corporation, donations to it are not tax deductible because of the political nature of our work. All participants in the organization are volunteers. We have no paid staff. Please make a donation to help defray our telephone, travel, postage, copying, and other expenses.

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