

**Know Your Rights.
They are important.
Period.**

The information in this brochure is designed to give you a brief overview of what you should consider prior to entering into marriage in Connecticut. This information is **not** a substitute for professional legal advice and does **not** form an attorney/client relationship.

Please visit our website for more information on the rights of same-gender couples and LGBT individuals. The website provides information on the areas of law we practice as well as links to other appropriate websites. Our URL is <http://www.ireneolszewski.com>.

If we can be of service, please do not hesitate to contact us to schedule a consultation.



**Proudly
Serving the
LGBT
Community**



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Client-Focused
Legal Solutions

***Before
You Enter Into
Marriage
In Connecticut***

***A Brief Guide
For Lesbian &
Gay Couples***



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Before Entering Into Marriage in Connecticut...

Marriage is a legal relationship that carries with it significant rights, responsibilities and obligations. Lesbian and gay couples seeking to enter into marriage should familiarize themselves with the key issues in order to avoid unanticipated consequences. It is critical to understand that same-sex marriage is an evolving body of law and that there are still many uncertainties from a legal perspective. The laws applying to same-sex relationships are changing rapidly (as evidenced by California's Proposition 8 outcome). For that reason, the information presented in this brochure is meant to be a "jumping off" point. For more detailed and current information, you should consult a licensed attorney.

On October 10, 2008, the Connecticut Supreme Court ruled that same-sex couples have the right to marry in this state. The law took effect on November 12, 2008. It is important to remember that although lesbian and gay couples can legally marry in Connecticut, the marriage will not be recognized by the federal government, nor will it be recognized by the majority of other states. Marriage will afford you all of the rights and protections available to married couples in the State of Connecticut but will **not** afford you the 1138 protections currently available to heterosexual married couples on a federal level.

Before entering into marriage, you should consider the following:

- ▼ Entering into a marriage will revoke your existing Last Will and Testament;
- ▼ If you are in the process of adopting or are considering adopting a child, marriage may provide a barrier. Most foreign countries and some U.S. states prohibit same-sex **couples** from adopting but do allow single-parent adoptions;
- ▼ You may be disqualified from certain state government program because your spouse's income and assets may be included with your own;
- ▼ Connecticut law provides that married persons

are responsible for their spouse's debts including medical bills, rent and the purchase of items that support the family or benefit the couple;

▼ Connecticut law provides that a spouse generally cannot disinherit a spouse by leaving that spouse out of her/his will unless the couple has signed a valid prenuptial agreement;

▼ Your marriage cannot be dissolved (divorce) without meeting specific residency requirements in the State of Connecticut and other states may or may not allow you to obtain a dissolution of marriage outside of Connecticut;

▼ If you chose to dissolve your marriage, a court will determine the division of your property, alimony, child support, and visitation and other related issues, if the couple cannot agree on their own;

▼ Absent a clear prenuptial agreement addressing the question, a court can consider any property owned by either or both of the parties as property subject to distribution in a dissolution proceeding;

▼ If you are in the military, an "attempted marriage" to a person of the same sex is grounds for discharge under the "Don't Ask, Don't Tell" policy;

▼ An employer-sponsored domestic partnership plan may require you to be "unmarried" in order to qualify;

▼ Foreign nationals should not marry without consulting an experienced immigration attorney. Applying for a change in immigration status based on a marriage to a same-sex partner could lead to deportation or future denials of visa applications; and

▼ Marriage is a legal status that will have to be disclosed on forms and records in both public and private contexts.

Until such time that same-sex couples are afforded the right to marry in all 50 states, they should consider obtaining legal documents that will protect them outside of Connecticut's boundaries. The following is a brief summary of the documents and legal options that are available. A licensed attorney will advise you according to your individual needs.

▼ Last Will and Testament ▼

Marriage **invalidates** your existing Will and affords you and your spouse statutory rights to each other's real and personal property. In order to direct the disposition of your property, it is important that you execute a valid Will. A licensed attorney will discuss the appropriate options with you.

▼ Change of Surname ▼

If you wish to change your surname following a legal Connecticut marriage, you must submit a certified copy of your marriage certificate to the Social Security Administration and the Connecticut Department of Motor Vehicles. It is important to be aware that as a result of the 1996 Defense of Marriage Act, **the Passport Agency will not honor name changes done by means of a marriage license.** For purposes of obtaining a passport in your married name, you must either apply for a legal name change through the Probate Court or wait 5 years before a passport will be issued with your married name.

If you wish to legally hyphenate your surnames or change one party's surname to that of the spouse, an application to the Probate Court should be strongly considered. Couples planning to have children biologically or by means of adoption may also want to consider a legal name change. A licensed attorney can navigate you through the Probate Court process.

▼ Prenuptial Agreements ▼

Prior to entering into marriage, couples should consider executing an agreement that specifically sets forth how each person's individual and jointly held assets will be distributed in the event of a divorce. Consult a licensed attorney for a detailed discussion.

▼ Second-Parent Adoption ▼

If you and your partner plan to have a child together and you will not be the biological parent of that child, it may be in your best interest to legally adopt the child, in order to create your own parental rights. The State of Connecticut allows second-parent adoption for same-sex couples. A licensed attorney can guide you through the adoption process.

▼ Other Legal Documents ▼

A licensed attorney can discuss Advance Directives, Powers of Attorney, Custody and Control of Bodily Remains & Personal Effects, Advance Appointment of a Conservator and other related documents of protection that may suit your individual needs.