

Protect yourself; protect your partner

Increasingly lesbians and gays are creating their own families; here are some practical tips on how to create and protect the ties that bind

BY BRADLEY J. WOODWORTH

As the lesbian and gay lifestyle matures, and as we change our behaviors and attitudes to protect ourselves from, and support our friends with, AIDS, lesbians and gays are increasingly creating their own "alternative" families. The families created may be small (just you and your lover) or may include a more

Counsel

extended group of people on whom to rely for assistance and support in running the gantlet of life. Some of our families are strong, stable and durable; others form and re-form over the years. But the human need to be connected to others, to have people to rely on, and to be needed by someone continue to draw us together.

More of us live our lives more openly than ever before, and more openly together, as well. Increasingly, we have openly gay and lesbian attorneys to help us protect our newly forming families. There are probably a dozen "out" or mostly "out" lawyers in the Portland area who help gay and lesbian families arrange their affairs.

Domestic agreements; adoption

Domestic or "living together" agreements are most often drawn up between lovers who wish to live together. However, they may also be used by a larger group of people who are

sharing living arrangements or joining together in real or personal property ownership.

Domestic agreements can be very simple or very complex. They can provide that everything is supposed to be shared and shared alike or that the separate property of the parties is not to be treated as jointly owned or they can provide some combination of both. The terms of a living together agreement will depend on what your intentions and plans are. But having a formal agreement can minimize disagreements and make them easier to resolve, when they do arise. Also, the process of stating your intentions and commitments in writing can also help to bring you closer to your domestic associates.

Domestic agreements can also be helpful in fending off unwarranted interference from biological relatives. If the intentions of a competent adult are formalized in an agreement, the gay couple is in a stronger position to ward off intrusions of hostile or greedy relatives. A domestic agreement does *not* take the place of a will, however.

Another way to really cement a relationship is through adult adoption. That is, one lover can legally adopt the other. Such adult adoptions are legal in Oregon, but raise interesting questions of violation of criminal incest laws. Careful thought and counsel from an attorney familiar with adult adoption should be obtained.

Wills, living wills

If you die without a will, your property *will* — not *might* — but *will* go to your surviving blood relatives. If your wish is to pass your

property, whether great or small, valuable or sentimental, to your lover or to those who have served as your gay family through the years, you *must* prepare a will. A handwritten will is *not* legal in Oregon. If your only will is handwritten, then your property will still go to your surviving blood relatives. Simple wills are not expensive, and are well worth doing. Any of the gay community lawyers can help you prepare a suitable will. Please consult them to make sure your property will go where you want when you die. This cannot be left to chance or to informal or verbal agreements. A blood relative can come in and upset any such informal agreements and will almost always win over an unprotected gay partner.

A "living will" is not really a will. It is a formal legal statement that you do not want your life to be artificially prolonged when you are terminally ill. It must be signed before you are incapacitated, and must be in a particular form. Your gay community lawyer can draft a living will for you.

Powers of attorney; appointments

A situation may arise when your lover or gay family member is very ill, perhaps incapacitated and unable to make her/his own decisions. In such a case, the doctors and hospitals will usually follow the wishes of the biological next of kin. If disagreements arise between the ill person's lover or gay family and his biological family, the courts will usually side with the blood relatives. You could be shut out of visiting, from receiving medical information, and from participating in the decisions that need to be made. Fortunately, if you plan ahead, you can prevent this nightmare. The tool your gay community lawyer can prepare for you is a "durable power of attorney," a document that you sign appointing your lover or gay family member to make such decisions for you, if you are incapacitated. These documents are relatively simple and inexpensive. They are well worth it if there is any chance an evil or

ignorant family member will swoop into the sickroom and oust your loved ones from your side.

Joint property; survivorship

One of the ways you can protect your partner and assure that he or she will get your property upon your death, is to own that property jointly, with right of "survivorship". Joint ownership with survivorship can be done with real property, bank accounts, money market funds, stocks and bonds, and other forms of tangible personal property. Also, joint ownership with survivor rights can also reduce the costs of probate and almost eliminate property contests from greedy blood relatives. There are dangers with joint ownership, also, so you may be well advised to talk with a lawyer before entering into joint ownership of real or personal property.

Finally, protection and certainty can also be accomplished by designating your lover or gay family member as the beneficiary of insurance policies you may own. Such property also passes outside of probate.

As you can see, there are a number of legal tools that can be used to define, protect and empower a gay relationship or gay family arrangement. Do not hesitate to use these tools to make your life more stable, predictable and solid. But get good legal advice as you do so.

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Dykes to Watch Out For

