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date them? Now that Constitutional Amendment 36 has been thrown into the mix, it calls into question the validity of transgender marriages after someone transitions.

The court may not be aware of what they might be doing in making decisions that could affect very long marriages between trans people who have naturally birthed children together, who are now in their 60s and still married. The decision could undo their marriages, too. The degree to which government agencies, even inside the state of Oregon, honor the legality of that marriage is inconsistent and uncertain.

JRC: Can same-sex couples who married last March file income taxes jointly?

LP: It's not absolutely clear. Couples should consult a certified public accountant. Arguably, under state law, since the marriages were certified in the state of Oregon, the Oregon tax laws for married people should apply. But that also plays into federal taxes, and under federal law, it's clear that feds do not recognize same-sex marriage.

JRC: What should the couples in legal limbo do if they wish to divorce?

LP: It would be prudent to file for divorce, as there are some third parties and state agencies who are recognizing same-sex marriages right now. For that extra insurance that you really are separated, consider filing a domestic partnership dissolution. If the courts determine you were never married, you're basically dissolved.

JRC: What rights over property and assets do married queer couples have if they divorce, provided their marriages are deemed legal?

LP: Since there have never been appellate opinions on this matter in the state of Oregon yet, it's unclear. I don't think there would be any constitutional reason why married same-sex couples who are being divorced would be treated any differently from other married couples.

In Oregon, when same-sex domestic partners are separating their lives with the assistance of the court, the procedure and law is similar to that of married people, but also quite different. There's a clear date when the marital estate began. But that's not distinctive for same-sex partners.

There's a body of dissolution case law that had to do with a married couple who divorced and then shackled up together, but didn't marry. When they dissolved that relationship, that was the first case where the family courts were used to separate parties who were not actually married, but they used a lot of the same principles of marriage law.

When you're not married, and there are significant assets at stake, unless the intention of the parties is in writing, it can be very difficult to assert your rights in partnership property. When you're married, though, legally, some of the presumptions surrounding ownership of property are codified in the law. If you're not married, start making some notes and inventories of partnership property.

JRC: Although we know that same-sex couples can only simulate a few of the benefits of legal marriage outside that institution, what can unmarried same-sex partners do to gain some of the protections afforded to married couples, and what is the cost to prepare such contracts?

LP: There are several doctrines you can use. Create a will and trust, and nominate a guardian and conservator. A guardian is appointed by a court to oversee the physical well-

being of a person who cannot oversee himself or herself. A conservator is a financial fiduciary who is also appointed by and accountable to the court to oversee a person's finances and whole estate when that person is incapable of doing so. An advance directive for health care nominates a health care representative to interact with care providers when a patient is unable to.

Then there's a statement of personal property ownership as joint tenants with rights of survivorship, with an appropriate inventory. This document identifies all or some personal property that the parties have elected to own jointly and upon the death of one person immediately becomes owned fully by the other owner. It's good to create an inventory that's consistent with a will to indicate which items are specifically intended for other people so there's not a fight between family members or a bank or a judgment creditor in a lawsuit.

A domestic partnership agreement or life partnership agreement between the parties indicates their intentions. It's essentially a prenuptial agreement without the nuptials because there's no opportunity for nuptials. Consider what you want to happen to your body upon your death, and maybe set up an account or pick a plot or pay a crematorium in advance. Consider owning insurance policies and brokerage accounts jointly, or name the partner as a beneficiary.

As a general caution, same-sex couples could face significant taxation issues if they transfer anything of value to the other, even as a gift. Married people under federal and state laws can transfer an unlimited amount of money with no tax consequences. There's no way around it. The cost of legal partnership is \$600 and up, if you have a fairly simple estate. If you have significant assets, you

should probably see a tax specialist as well.

JRC: Do you have any legal advice for those waiting to find out if their marriages are going to stick?

LP: There is an issue with regard to wills. In Oregon, and who knows if this will apply to same-sex couples, even if you were to write a will disinheriting your spouse, your spouse can still get 25 percent of your estate. There's a possibility that the wills made prior to getting married might be invalidated. A will created before a marriage should be reaffirmed in a legal manner after the marriage to ensure that it's not revoked no matter what happens to the marriage when the Supreme Court speaks. 



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